

A Handbook for the Justice and Peace Commission

*Best Practices of Community Legal Advice Programs,
Program Assessment and Recommendations*

Walter Leitner International Human Rights Clinic
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Acknowledgments

This handbook is the product of a partnership between a team of law students and faculty from the Walter Leitner International Human Rights Clinic at Fordham Law School (Leitner Clinic), the Carter Center, and the Catholic Justice & Peace Commission (JPC). At the request and invitation of JPC and the Carter Center, the Leitner Clinic conducted comparative research on community-based paralegal and community legal advice programs in Africa and Asia and completed field research in Liberia in order to assess JPC's challenges and successes as they expand their Community Legal Advisor (CLA) program.

The Leitner Clinic is part of the Leitner Center for International Law and Justice at Fordham Law School in New York City, U.S.A. The Leitner Clinic works in partnership with non-governmental organizations and foreign law schools on international human rights projects ranging from legal and policy analysis, fact-finding and report writing, human rights training and capacity-building, and public interest litigation. The Leitner Clinic equips Fordham Law students with the necessary skills to become effective human rights advocates and public interest-minded lawyers.

The Carter Center sub-grants the JPC in the southeast to provide County Monitors, who have been trained to: 1) provide information and education on rights and the law; 2) assist people with interactions with government and court authorities; 3) assist with the negotiation of small-scale conflicts and teach negotiation and mediation skills; and 4) make referrals for litigation as needed. County Monitors currently work in teams of two in five counties: River Gee, Grand Kru, Maryland, Sinoe, and Grand Gedeh. After a six-month pilot phase in these five counties, the CLA program will expand to Bong, Lofa, and Nimba counties as well include teams of mobile County Monitors to ensure that geography is not a precondition for determining one's level of access to justice.

This handbook was written by David Mandel-Anthony, Sarah Stevenson, and Andrew Wachtenheim, Fordham Law students in the Leitner Clinic. It was supervised and edited by Professor Chi Mgbako, Director of the Leitner Clinic, and Kristina Baehr, Yale Law School Bernstein Fellow at the Carter Center. Fieldwork in Liberia was conducted by Kristina Baehr, Chi Mgbako, David Mandel-Anthony, Sarah Stevenson, and Andrew Wachtenheim in October 2008.

The Leitner Clinic thanks the representatives of community-based paralegal and legal advice organizations in Africa and Asia who provided information about the programs included in Part I of this handbook. While in Liberia, the Leitner Clinic interviewed JPC and Carter Center staff, government officials, NGO representatives, lawyers, JPC clients, and community members in Monrovia, Harper, Barclayville, Pleebo, and Cavalla. The Leitner Clinic thanks all the individuals and organizations in Liberia who provided us with the information and ideas incorporated into this handbook.

Most importantly, the Leitner Clinic gratefully thanks JPC and the Carter Center for inviting us to Liberia, hosting our visit, providing us with a wealth of information about the CLA program,

and giving us the opportunity to contribute to their important and meaningful work in making justice real for all Liberians.



Carter Center and JPC staff with the Leitner Clinic team in Barclayville

Executive Summary and Recommendations

Liberia's long civil war severely impaired access to justice for many Liberians. Despite the institutional vacuum and enormous challenges facing the Liberian justice system, the Carter Center and JPC have formed an extraordinary team of monitors and supervisors to improve access to justice for ordinary Liberians.

The goal of this handbook is to provide JPC and the Carter Center with information and recommendations as they expand and improve the Community Legal Advisor program. The handbook presents best practices of community-based paralegal and legal advice organizations in developing economies and post-conflict settings in Africa and Asia, and provides a constructive analysis of JPC's work based on comparative research and fieldwork in Liberia.¹

The handbook is divided into two sections. Part I presents comparative research on the best practices of community-based paralegal and legal advice organizations in Bangladesh, Kenya, Liberia, Malawi, Mali, Namibia, Nigeria, the Philippines, Sierra Leone, South Africa and Zimbabwe.

Part II provides analysis and recommendations for how JPC can improve their CLA program in the following areas: supervision; training; case management; legal referrals and impact litigation; gender-based violence (GBV);² land disputes; the advocate/mediator dilemma; monitoring courts and customary law bodies; mobile clinics; engaging with traditional leaders; and sustainability. The Leitner Clinic hopes that JPC will refer back to these topic-based sections as they continue to grow and refine their practices in the months and years ahead.

Recommendations for the Justice and Peace Commission's Community Legal Advisor Program:

SUPERVISION AND TEAMWORK

- 1. Encourage feedback and communication between monitors.** Timap for Justice provides its paralegals with cell phone minutes and encourages paralegals to call each other frequently to discuss cases (Timap page 61). This is an effective way to dramatically increase communication, teamwork, feedback, and supervision.

As JPC expands, they might consider instituting a policy that monitors should always be placed in a region in pairs. Monitors in Grand Kru, for example, currently work in areas far from one another. JPC might also consider rotating paralegals to different counties or offices.

¹ Before conducting our research, we signed a confidentiality agreement with JPC to protect information about their clients. While the identity of the clients will be clear in context to JPC, we have decided not to use real names of clients in this report, in the event that the report is subsequently distributed outside JPC.

² In this report, when discussing GBV we will use the term "survivor" to avoid the disempowering connotations of "victim" when discussing sexual assault, rape, and domestic violence. However, it should be noted that the term "victim" has a relevant legal meaning.

2. **Conduct surprise visits and spend time in each office.** JPC should send lead monitors to spend at least two days at each office per month. JPC should schedule these visits as “surprise visits” so that the monitors do not know when the lead monitor might be coming. As a result, monitors might be more inclined to keep their files in order, follow up on cases, etc.
3. **Supervise case management.** Supervisors should make sure that monitors treat clients professionally and ensure that each office has a professional case management system. Lead monitors and attorney supervisors can use the Case File Checklist provided in the Annex to review each file.
4. **Involve JPC attorneys in more supervisory roles.** The role of an attorney supervisor is more than to provide information on the law or answer legal questions; they can help monitors develop critical thinking skills and learn how to approach the law. With few qualified attorneys in Liberia, JPC has limited resources for attorney supervision, but they could use the attorneys they have more effectively.

The Carter Center and JPC, for example, might consider creating more opportunities for Counselor Reeves to meet individually with monitors to review their cases. In addition to providing information about the law, Counselor Reeves could help monitors develop their critical thinking skills and devise creative solutions to the legal issues presented in their most challenging cases.

TRAINING

1. **Develop a more thorough initial training program.** JPC should consider revamping their initial training program for monitors. For example, JPC could hold a two or three-week initial training program exclusively for new monitors that covers both JPC procedures (intake, file maintenance, follow up, etc.) and basic substantive law on the most common legal issues. After this initial training, each new monitor could be required to shadow an experienced monitor for another two weeks to witness the procedures and law in practice. During the first six months or year, JPC may want to create a weekly session for new monitors to discuss their cases with one another and check in with supervisors. This combination of learning, witnessing, and reflecting would greatly improve the monitors’ experience with the program as well as the quality of their services.
2. **Shorten monthly retreats.** Now that lead monitors will be visiting regional offices and continuously supervising the work of monitors, JPC might consider holding retreats less frequently or holding retreats regionally.
3. **Develop a monitor handbook.** JPC should consider developing a handbook, in binder format, that includes case protocols, guidelines and checklists, and a summary of all the laws monitors use and apply regularly. Using a binder will make it simple to add new updates or remove outdated information. Additions to the handbook could be provided to all monitors at retreats. Any powerpoint presentations or handouts at retreats could also

be added to the book. Monitors should refer to their handbook as necessary to ensure cases receive consistent treatment.

INTAKE AND CASE MANAGEMENT

- 1. Amend current case forms and develop new forms.** The Leitner Clinic reviewed several JPC files and found that they were often incomplete and difficult to follow. JPC keeps files confidential and organized, but the files themselves often lack important information about a case. For example, some files did not include a complete record of an intake interview, while others did not have any notes about subsequent meetings or follow-up. A supervisor or colleague could not pick up the file and know exactly what the case is about, what progress has been made, and how to continue to follow up.

New and amended case forms could help monitors maintain more complete files. The monitors themselves indicated that new forms would be helpful.³ The Leitner Clinic has developed sample case forms that are included in the Annex. JPC can alter these sample forms as needed and use them with all clients.

- 2. Replace client letters with client agreements.** JPC uses client letters in part as written documentation that the client has asked JPC to intervene in a case. While client letters can be helpful to articulate clients' interpretation of the facts of their case and their ideal outcome, they also present significant hurdles to legal representation. For example, illiterate clients who cannot write letters might refrain from seeking help from JPC. Similarly, potential clients who return home to write the letter might not have enough money to come back to JPC for a second meeting.

A client agreement could provide all the benefits of a client letter without posing the same hurdles to legal representation. For example, the client can sign the client agreement at the first meeting, so the client would not have to incur a cost to return to JPC a second time for intake. Illiterate clients would not be forced to trust someone else to write a letter on their behalf; the monitor could explain the client agreement orally to the client.

Additionally, a client agreement could protect JPC. If a client is dissatisfied with the results of a case, JPC could refer to the document outlining the rights and responsibilities of both JPC and the client. The Leitner Clinic has drafted a sample client agreement which is included in the Annex. JPC can alter this sample client agreement as needed and use it with all clients.

- 3. Conduct longer intake interviews with more specific questions.** JPC monitors should conduct longer intake interviews and ask more specific questions during the interviews to get a more complete understanding of the facts and legal issue presented. JPC monitors currently use open-ended questions during intake interviews to get information from

³ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

clients.⁴ Monitors should continue using open-ended questions but should also use more specific questions to get more relevant information. During the interviews, monitors should press clients for as much information as possible. They should ask clients to start at the beginning of the story and include all details that might possibly be relevant to the dispute. If a point is unclear to the monitors, then the monitors should ask the clients to clarify the point.

- 4. Implement procedures for interviewing survivors of gender-based violence.** JPC monitors report that they struggle with interviewing GBV survivors because they do not want to re-traumatize the survivors during the interviews.⁵ The monitors should implement standardized procedures for these interviews. The Leitner Clinic has drafted a checklist for monitors to use during intakes involving domestic violence. A copy is provided in the Annex. JPC might also consider bringing a female monitor or community member to the interview to make the client more comfortable.
- 5. Provide maximum number of available options to client and record client responses.** JPC monitors should provide clients with the maximum number of available options for resolving the case. The goal is to provide clients with information and empower them to make their own decisions.
- 6. Continue to develop a centralized database as funds permit and join other organizations in an effort to develop national case-tracking and statistical tools.** As funding and resources permit, the JPC should continue to improve its centralized database to organize cases, identify trends in those cases, and better evaluate its work. Some groups who focus on GBV in Liberia have been working with the Ministry of Gender to develop a national database to track cases. The Norwegian Refugee Council has also developed a similar tool to track the types of legal disputes that arise in communities nation-wide. JPC might consider joining in these efforts to coordinate information on a national level.

MEDIATION PROCEDURES

- 1. Implement a written mediation protocol.** JPC should implement a written mediation protocol to ensure professionalism and consistency across JPC mediations. JPC can look to Timap for Justice's mediation protocol for guidance. A written mediation protocol will help community members know what to expect when they come to JPC for mediation. A simple and written protocol may also cause parties to take mediation more seriously and thus ultimately improve their adherence to any agreement they reach.

⁴ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

⁵ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

- 2. Decide when monitors should act as advocates during mediation and when monitors should act as neutral mediators.** Generally, JPC should decide which cases warrant advocacy and which cases warrant neutral mediation. JPC should address DV cases separately from all other cases. In other cases, JPC should consider certain issues when deciding when to advocate and when to mediate neutrally like whether a client would be likely to win the dispute in the formal or traditional justice system. If statutory or traditional law is clearly in the client's favor, JPC should advocate for the client in the mediation. If the law is not clearly in the client's favor, JPC should more strongly consider a neutral mediation to help the parties to reach an amicable settlement. If the client expresses flexibility about case resolution, JPC should prioritize mediating neutrally.

FOLLOW-UP AND NAVIGATING TRADITIONAL AND FORMAL FORUMS

- 1. Protect client safety and confidentiality when following up on domestic violence cases.** When JPC follows up on DV cases, JPC should be careful to visit the client only with her permission. And when the monitor does visit, he or she should talk to the client separately to preserve client confidentiality and ensure that the client has an opportunity to accurately report violence.
- 2. Follow up after JPC refers the client's case to an authority.** When JPC refers a client's case to an authority such as the formal court system, traditional court system, or police department, JPC should follow up aggressively on behalf of the client. A monitor should serve as an advocate for a client who is navigating a challenging and often confusing legal system. Monitors are familiar with the system and authorities; they know both how the system operates and how the system *should* operate. Often, a monitor's mere presence protects a client. A monitor should accompany clients to the local authority or traditional leader, make introductions and explain procedures. JPC should continue to serve as a liaison until the case is resolved.

LEGAL REFERRALS AND IMPACT LITIGATION

- 1. Assist an attorney with litigation once JPC has referred a case to him or her.** JPC monitors can help attorney John Gbesioh to gather evidence, prepare witnesses to testify in court, explain court procedures to clients, and prepare documents for submission in court.
- 2. Choose a realistic approach to impact litigation.** It appears that JPC does not have the capacity to conduct large-scale impact litigation at the present time. But impact litigation simply means litigating cases that challenge an existing harmful practice. A small lawsuit can cause a public official to follow the law or deter other wrongdoers from violating the law. JPC should take advantage of their lawyer and refer cases where a favorable result could serve the public good. Even if the case does not go forward, it will

be a statement to the courts that JPC is prepared to litigate, and a statement to wrongdoers that JPC is willing and able to fight for the legal rights of the community.

DOMESTIC VIOLENCE

- 1. Develop a standard protocol for handling domestic violence cases.** In a workshop setting, JPC could reflect about their practices and develop their own written protocol to establish how to approach domestic violence cases. They should decide if they want to mediate domestic violence cases at all, and if so, which types of cases. They might consider developing indicators, such as whether the survivor *wants* to reconcile and mediate the dispute and whether the survivor is in imminent danger. The Leitner Clinic has drafted a DV Checklist provided in the Annex, which JPC may choose to adopt or amend.
- 2. Empower domestic violence survivors by presenting all available options and allowing them to choose how to respond.** Options should include promissory notes, criminal prosecution, separation or divorce, and safe houses.
- 3. Establish a protocol for when mediation is permissible if JPC chooses to continue the practice of mediating “minor” DV cases.** In DV cases, if a client chooses to pursue formal court action instead of mediation, JPC should assist the client. If JPC is concerned about the client’s safety and the client wants to pursue mediation, JPC should consider advising her to pursue an alternative course of action. Client safety should be of primary concern in DV cases.

JPC currently refuses to mediate DV cases in which they determine that the woman’s safety or life might be at risk. When dealing with the advocate/mediator dilemma in DV cases, many organizations, including JPC, decide to only mediate “minor” DV cases. If JPC continues this approach, JPC should clearly define what constitutes “minor” abuse and what constitutes “severe” abuse. It is important to note that many domestic violence advocates would strongly argue that there is no such thing as “minor” abuse, as all abuse is unacceptable. JPC could also decide that as a policy they will never mediate a DV dispute because domestic violence is a criminal act.

When and if JPC decides to continue with domestic violence mediations, JPC must decide whether to be an advocate for the client or a neutral mediator. JPC must balance the survivor’s rights and the desire to reach an amicable settlement between the feuding parties. JPC could adopt a firm policy that monitors will always advocate for DV survivors in mediation. Alternatively, JPC could adopt a standard where monitors will sometimes advocate during mediations and sometimes neutrally mediate. If JPC decides on the latter, they should consider which survivor concessions in a mediation are unacceptable.

- 4. Prioritize DV survivors’ interests over community perception of JPC’s work.** DV survivors who come to JPC for help trust that JPC will advocate for their best interests and guarantee their safety. If JPC monitors alter their case handling strategy in DV cases

in order to assure the community that JPC does not separate couples, JPC might compromise the safety and best interests of DV survivor clients. This type of advocacy will protect individual clients and might gradually help to change community perception that DV is an acceptable practice and that DV survivors should remain in abusive relationships.

5. **Conduct “shuttle” mediation.** If JPC continues to mediate domestic violence cases, they should develop a safe approach to mediation. They could consider shuttle mediation, which means that the mediator meets with only one party at a time. As a result, the abuser does not have the opportunity to grandstand in front of the survivor or a mediator. And the survivor has the opportunity to talk openly and honestly about her experiences.
6. **Consider prohibiting mediation agreements in domestic violence cases.** JPC may also reconsider whether to allow mediation agreements in domestic violence cases. Mediation does not necessarily need to result in a formal agreement where each party promises something to the other. A mediation in a domestic violence case might consist of the monitor – more of an advocate than a neutral mediator in this case – educating the offender about the law regarding domestic violence. Instead of bargaining with safety, the monitor would remind the offender that abuse is never, ever justified. Indeed, an “agreement” in such a case would really be a sort of promissory note in which the offender promises not to abuse the survivor. But the survivor need not offer anything “in return.”
7. **Continue the practice of never mediating a rape case.**
8. **Develop a standard protocol for handling rape cases.** JPC monitors currently handle rape cases very well. Caroline Doe serves on the Protection Task Force, and she has learned how to care for survivors effectively. She maintains confidentiality, she never blames the survivor, encourages the survivor to prosecute the case, accompanies the survivor to a medical clinic, works with the police to investigate, and assists the survivor throughout the legal process. It might be useful, however, to formalize this practice into a standard protocol to ensure that all monitors approach rape cases as effectively as Caroline.

LAND

1. **Conduct advocacy regarding land records management.** If possible, JPC should meet with local government officials and advocate for land records to be systematized, copied and kept securely in a government office rather than in Registrar Cooper’s home.
2. **Use the inheritance and land laws as legal and educational tools.** JPC should continue to use these laws in mediation and also structure outreach and education campaigns surrounding the inheritance laws.

3. **Partner with relevant authorities to educate communities about the inheritance laws.** In developing and presenting education workshops regarding property rights and widow disinheritance, JPC could partner with relevant authorities and NGOs, including village chiefs, the Land Commissioner, the District Commissioner and the Land Registrar.
4. **Maintain neutrality and avoid perceptions of bias.** JPC should be cautious about associating too closely with government committees or agencies dealing with communal land disputes. Communities often accuse governmental authorities involved in communal land disputes of bias and may view JPC as a non-neutral party in the conflict if they are too closely aligned with government efforts.
5. **Help communities understand their options.** Even if JPC is not willing or able to mediate a community land dispute, JPC can help communities engage in dialogue and understand the positives and negatives of the different legal and non-legal options available to resolve the dispute.
6. **Monitor refugee and internally displaced persons (IDP) return to the southeast.** If land conflicts arise in the southeast because of refugee and IDP return, JPC might consider developing partnerships with UNHCR and the Norwegian Refugee Council to strategize how to work with communities on the issue.

MOBILE CLINICS

1. **When choosing which communities the mobile clinic will visit, consider a number of factors that will ensure the mobile clinic has the most impact.** Some factors to consider include distance and access to JPC regional offices, the importance of the community as a hub of activity (e.g., market or trading center), and the types of issues and problems facing the community.
2. **Visit the same mobile clinic sites on a regular, rotating basis.**
3. **Hold sessions in a central location that allows for confidentiality.**
4. **Establish volunteer advocates in each mobile clinic site.**
5. **Conduct community sensitizations during mobile clinics.**
6. **Form relationships with traditional leaders and form community oversight boards in order to build trust with rural communities served by the mobile clinic.**

JPC'S ROLE IN THE COMMUNITY

- 1. Train traditional leaders on rule of law issues.** Traditional leaders play a particularly powerful role in many Liberian communities and can strongly influence behavior. Educating traditional leaders on rule of law issues, such as the illegality of rape and domestic violence, can gradually alter community attitudes toward certain practices.
- 2. Increase JPC's presence in rural communities and in the traditional justice system.** Because so many Liberians live in rural communities and access justice primarily through the traditional justice system, JPC should increase their presence in rural communities and in the traditional justice system. This increased role should include helping clients to navigate the traditional justice system and advocating for clients in customary law bodies.
- 3. Continue to work with traditional leaders to eliminate harmful traditional practices.** Both Harper District Commissioner Alfred Thompson and Harper Mayor Regina Sampson feel that JPC should work with community leaders to conduct sensitizations on the harmfulness of certain forms of traditional justice, such as trial by ordeal, in order to eliminate those practices.⁶ Thompson has offered to send some of his staff into rural communities with JPC monitors to conduct these sensitizations on traditional justice practices and rule of law.
- 4. Involve communities in the selection and oversight of paralegals through the creation of community oversight boards.** Increased community oversight will ensure that the CLA program maintains and increases its level of respect in communities. Creating community oversight boards may ensure positive relationships with the community and leaders.

SUSTAINABILITY AND NATIONAL ADVOCACY

- 1. Consider allowing the government to play some role in paralegal compensation but continue to pursue external sources of funding.** If the Liberian government formally recognizes paralegal programs, JPC may consider encouraging a government role in the financial support of the CLA program. However, when considering the wisdom of this path, JPC should recall the experience of Paralegal Advisory Services Institute (PASI) paralegals in Malawi who have experienced difficulties since funding has been channeled through the government.
- 2. When deciding on an advocacy plan, discuss the pros and cons of government recognition of paralegals programs.** Pros may include: standardized training and codes of conduct for all paralegals; increased recognition of paralegals as providers of justice services; possible right of paralegals to appear in specialized courts; creation of national paralegal registry and complaint board; increased ability to monitor government

⁶ Interview with Harper District Commissioner Alfred Thompson, 10/20/2008, Harper; Interview with Harper Mayor Regina Sampson, 10/20/2008, Harper.

entities, such as courts; possibility of government funding of paralegal programs. Cons may include: possible loss of paralegal independence; possible elimination of paralegals with low education levels that might not meet national qualification standards

- 3. Continue to play a role in the national dialogue on paralegals.** JPC and the Carter Center could lobby the national government and the Liberian Bar Association (LBA) to help them develop a more favorable view of community-based paralegals. For example, JPC could distribute Part I of this handbook to stakeholders in Monrovia who often have a limited understanding of how paralegal programs operate. JPC could also invite members of the Ministry of Justice or the LBA to visit JPC in the southeast and observe the work of the monitors.

**Part I: Best Practices of Community Legal Advice
Programs in Africa and Asia**

Balay Alternative Legal Advocates for Development in Mindanaw (BALAOD),⁷ The Philippines

A. Introduction

Human rights advocates founded the Balay Alternative Legal Advocates for Development in Mindanaw (BALAOD) in 2000. BALAOD provides legal services for communities of farmers, fisherman and indigenous people in the Philippines. BALAOD trains community members to work as paralegals. BALAOD employs fifteen people, including five lawyers who supervise paralegals' work.

B. Best Practices

i. Outreach

Publicity

When BALAOD works in a community, they partner with other community-based organizations. BALAOD also pairs legal actions with community education sessions during which BALAOD discusses the legal actions taken with community members. These practices allow BALAOD to spread its name to different communities.

Beginning a New Case

Many of BALAOD's new cases and partnerships develop in the following way: A community approaches BALAOD and requests help with a legal issue. Often the issue is a land or resource dispute in which the government or a corporation has sued the community. BALAOD then meets with local organizations and community members involved in the dispute. If BALAOD decides to handle the case, BALAOD trains a committee of staff members from a local organization as paralegals to assist with handling the case.

ii. Training and Paralegal Qualifications

BALAOD's paralegals undergo the following three trainings:

- 1) A general paralegal training where they learn about basic legal systems, social conditions, and government structures;
- 2) A special paralegal seminar where they learn about laws specific to the legal issues that exist in the community where they work; and

⁷ Information for this section comes from the BALAOD website <http://www.balaymindanaw.org/> and from a phone interview with Executive Director Arlene Bag-ao on 9/20/2008.

- 3) A skills training where they learn about the courts, the government, due process rights, and skills such as affidavit writing, evidence, and styles of argumentation.

After the three trainings, the paralegals begin a six-month placement that resembles an internship. During the placement, the paralegals work on specific cases with BALAOD in order to test and develop their legal and non-legal advocacy skills.

iii. Supervision

After BALAOD paralegals complete the trainings and the six-month placement, they attend monthly clinics for case support. At the clinics, the paralegals report to each other and to the attorneys, and the lawyers give the paralegals advice. During the clinics, the paralegals review every open case until the case is resolved or until the paralegal is no longer capable of handling the case and must refer the case to an attorney.

iv. Gender-Based Violence

All BALAOD paralegals who handle GBV cases are trained on GBV issues. BALAOD trains these paralegals on the legal and social justice aspects of GBV. They learn about the laws that govern GBV, the cycle of violence, social constructs, and gender roles.

v. Land

BALAOD handles many different kinds of land disputes including cases involving eviction; arson; cancellation of title; ancestral domain title for indigenous communities fighting land encroachment by agro-business; criminal matters pertaining to land; and child labor on big farms.

Example of Land Dispute

The Philippines recently passed land reform laws that the government often does not apply to agrarian land. BALAOD educated paralegals in communities about these new land laws to empower the communities to petition the government for enforcement of the new laws.

vi. Advocate/Mediator Dilemma

Generally, BALAOD will not mediate a GBV case. BALAOD will only mediate a GBV case if BALAOD is working with an indigenous community and the community wants BALAOD to resolve the dispute by a traditional form of justice. If the community wishes to proceed this way, BALAOD will do so but BALAOD will still inform the survivor that this practice is a violation of her rights. The Leitner Clinic does not classify this as a best practice. Our belief is that an

organization should not engage in practices that they believe constitute violations of fundamental rights.

vii. Challenges

BALAOOD faces two primary challenges:

- 1) BALAOOD often represents communities in conflicts with big corporations. The paralegals often emerge as the face of the community and become targets for retaliation. BALAOOD's paralegals face actual violence from security forces and big corporations.
- 2) BALAOOD's projects are often long-term and there is a scarcity of resources for handling these cases.

viii. Keys to Success

Sustainability is the key to BALAOOD's success. BALAOOD employs several strategies to achieve sustainability:

- BALAOOD aims to assist communities without making the communities dependent on BALAOOD for help.
- BALAOOD aims to ensure that people know their rights so that they can realize those rights through available laws. They also give community members strategies for crafting legal responses to problems.
- BALAOOD leaves paralegals in partner communities so the paralegals can apply the knowledge gained to future issues the community confronts.
- BALAOOD always executes a partner community's wishes. BALAOOD sees this practice as vital to BALAOOD's success.

ix. Contact Information: Balay Legal Advocates for Development in Mindanaw (BALAOOD)

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|-----------|---|
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| Contacts: | Executive Director Arlene Bag-ao |

Bangladesh Rural Advancement Committee (BRAC)⁸, Bangladesh

A. Introduction

The Bangladesh Rural Advancement Committee (BRAC) is the largest paralegal program in the world. BRAC employs approximately 500 paralegals, 468 program organizers, and 44 full-time lawyers. Additionally, 450 panel lawyers comprise BRAC's advisory body.

BRAC's paralegals and lawyers use mediation, arbitration, and the formal court system to help clients resolve disputes. BRAC also uses a traditional Bangladeshi arbitration mechanism called *salish* to resolve disputes. The Madaripur Legal Aid Association (MLAA) in Bangladesh also uses this arbitration mechanism (MLAA page 47). BRAC handles disputes pertaining to dowry, polygamy, divorce, marriage, physical torture, land, money, rape, acid throwing, kidnapping, trafficking, and fraud. BRAC primarily works to advance women's rights and access to justice.

B. Best Practices

i. Outreach

Paralegal Presence in Communities

BRAC's paralegals are deeply rooted in the communities where they work. Many of the paralegals are community leaders. These strong community roots help the paralegals to conduct outreach in the communities. The paralegals give presentations at schools, mosques, temples, and community events.

Sensitizations and Community Education

BRAC's paralegals lead "Human Rights and Legal Education" classes for village women. The classes focus on the following topics:

- Law;
- Legal systems;
- Ways of seeking help;
- Human rights;
- Access to land;
- Decision making in the family;

⁸ Information for this section comes from the BRAC website <http://www.brac.net> and from e-mails exchanged and phone interviews with Director Faustina Pereira and Communications Officer Sumaiya Islam on 9/20/2008.

- Access to justice;
- Women's right to property;
- Women's right to divorce;
- Domestic violence;
- Women's right to guardianship over children,
- Women's access to redress in a society where their actions and mobility are severely restricted.

For many women, these classes are a first exposure to the concept of legal rights. Since 1986, 3.5 million women have attended these classes. BRAC's paralegals regularly follow up with women who have attended these education classes so that BRAC can maintain a flow of information into the community.

ii. Training and Paralegal Qualifications

All of BRAC's paralegals are literate, and most have completed secondary school. A limited number of BRAC's paralegals also have some higher education. BRAC does not have strict requirements in the hiring process, but BRAC feels that literacy and a secondary education are valuable to the paralegals' work.

New BRAC paralegals undergo an intensive three-week training session. During the training session the paralegals undergo gender sensitization and learn about BRAC's values and current Bangladeshi law. Paralegals must also undergo an annual refresher course. BRAC trainers and lawyers conduct the trainings.

iii. Supervision

BRAC employs program organizers to supervise the paralegals. The program organizers are primarily concerned with the paralegals' safety and meet monthly to ensure that the paralegals are able to work without interference from hostile community members.

iv. Legal Referrals and Impact Litigation

BRAC collaborates with the Bangladesh National Women's Lawyers Association. Paralegals refer cases of failed mediation to these lawyers so that they can pursue litigation.

v. Gender-Based Violence

Use of Outreach and Legal Services to Combat GBV

BRAC uses community outreach and the provision of legal services to prevent GBV and provide support to GBV survivors. To reduce the prevalence of acid throwing, a common form of domestic violence in Bangladesh, BRAC's paralegals disseminate information about its health and human rights consequences. BRAC's paralegals refer survivors to a nearby BRAC office for legal assistance. BRAC trains paralegals about the laws that govern GBV so that paralegals will know when to refer a case to a BRAC office for legal representation.

BRAC's paralegals also use their education classes to establish social networks in the communities where they work. The paralegals then use these networks to quickly provide support and rescue to GBV survivors.

Mediation and GBV

BRAC emphatically will not mediate a GBV case or any case that involves criminal activity. BRAC feels that mediation compromise the rights of GBV victims. BRAC paralegals work to prevent mediations in GBV cases, and disseminate information about what issues are too severe to mediate.

Advocacy for Rape Survivors

When a BRAC paralegal is informed of a rape, she will immediately refer the case to the BRAC office. The paralegal and other staff members escort the survivor to the hospital to receive medical treatment and then to the police to report the crime. If the state prosecutes the case, BRAC staff assist the state by preparing witnesses to testify in court and escorting witnesses to the courthouse.

vi. Advocate/Mediator Dilemma

Role of Paralegal in Mediation Sessions

BRAC's paralegals always act as neutral mediators during mediation sessions. The paralegals never advocate for one party.

Usually, the feuding parties ask BRAC to mediate their dispute. When BRAC paralegals mediate a dispute, they are mindful of basic human rights standards relating to gender equity and adherence to the Bangladeshi constitution. During mediation, the paralegal reminds the parties about these standards. The paralegal also keeps track of time, reminds the parties of the mediation rules, records the final resolution, and follows up with the parties to ensure compliance with the resolution terms.

BRAC paralegals mediate non-violent family disputes with both parties in the room. The parties often bring witnesses with them to the mediations.

vii. Traditional Leaders

Traditional leaders are very resistant to BRAC's work. They are particularly resistant to BRAC's efforts to protect women's rights and BRAC's interference in mediations and arbitrations of GBV cases.

BRAC sometimes uses litigation to combat this resistance from traditional authorities. If BRAC encounters resistance from traditional authorities when handling a case, BRAC may pursue litigation in the formal court system to resolve the case in order to minimize the role of traditional authorities. BRAC also organizes local community leader workshops to facilitate discussion between human rights advocates and traditional authorities.

viii. Sustainability and Government Recognition

BRAC also employs higher-level paralegals. To compensate these paralegals for their work, BRAC trains them to measure land. This provides the paralegals with a source of income and also with skills they can use to resolve land disputes.

ix. Contact Information: Bangladesh Rural Advancement Committee (BRAC)

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The Black Sash,⁹ South Africa

A. Introduction

Black Sash was organized as part of South Africa's anti-apartheid movement to mobilize, sensitize, and provide legal services to oppressed communities. Black Sash has run a paralegal program since 2003 that provides services to underserved individuals and communities, primarily in urban areas, with a special focus on the poor, women, children, and the disabled. Black Sash is a member of the National Alliance for the Development of Community Advice Offices (NADCAO page 49). Fourteen paralegals employed and paid by Black Sash are located in seven regional offices.

Paralegals provide free education and advice in the areas of social and consumer protection, labor, and citizenship to approximately 40,000 people each year. The organization also engages in legislative advocacy work. Black Sash had a paralegal training program, but it was closed in 2006 due to budget limitations. They may consider reopening the program in the future.

B. Best Practices

i. Training and Paralegal Qualifications

The regional office manager recruits new paralegals in consultation with the human resources unit at the national office. Black Sash chooses paralegals based on their formal qualifications and personal attributes, including: an accredited paralegal diploma; experience in case and project management; knowledge of laws and policies regarding socio-economic rights; report writing, problem solving and workshop planning skills; personal discipline and honesty; and ability to work in a team.

Paralegals are trained in workshops run by the Departments of Labor and Social Development. The Commission for Conciliation, Mediation and Arbitration, a statutory body, trains paralegals on the management and resolution of labor disputes.

ii. Case management

The paralegals give advice, assist in joint problem solving, conduct conflict resolution and mediation, provide referrals to professionals, and supply information. Paralegals use dispute resolution techniques daily including mediation, negotiation and facilitation. Paralegals also gather and analyze information to address the causes of the community members' problems. Topics within the paralegals' mandate include land disputes and evictions, labor disputes, consumer problems, social assistance, domestic violence, and housing disputes.

⁹ Information for this section comes from the Black Sash website, www.blacksash.org.za, and emails exchanged with Director Jane Coombe on 10/13/2008, Human Resource Manager Lizelle Dreyer on 10/6/2008 and 10/07/2008, and Regional Manager Jonathan on 10/08/2008.

The paralegals consult ten to fifteen people each day. The organizational goal is a caseload of 10,000 cases per year, with turnaround of less than twelve months and a 75% closure rate.

iii. Supervision

Regional managers supervise paralegals and review both the hard files kept by the paralegals and the national case work database. Regional managers evaluate and review paralegals' work during individual meetings. Paralegals also attend annual appraisal meetings. The casework database administrator comments on new paralegals during their probationary period. In 2006, an external company performed an audit of all Black Sash case files.

Since 2000, Black Sash has dismissed two paralegals from their duties. One was dismissed for being under the influence of alcohol at work, and the other for poor work performance. Before dismissing the paralegals, the organization attempted to support the paralegals and conducted a disciplinary hearing.

iv. Gender-Based Violence

When paralegals receive a case of rape or domestic violence, they encourage the survivors to approach the police and the courts.

v. Legal Referrals

Paralegals do not have the right to appear in court and refer cases that require formal court representation to attorneys.

vi. Keys to Success

Paralegals work through community-based advice offices, which are respected in the community. Because of this arrangement, the paralegals have greater credibility, and people visit the paralegals to access justice.

vii. Contact Information: Black Sash

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Civil Resources Development and Documentation Centre (CIRDDOC),¹⁰ Nigeria

A. Introduction

The Civil Resources Development and Documentation Centre (CIRDDOC) offers free legal aid services through paralegals located in legal advice centers and community information centers. CIRDDOC has trained about 100 paralegals and employs five lawyers.

Paralegals handle a broad range of cases, including matrimonial and family disputes, land disputes, breach of contract, marriage, divorce and inheritance cases, legal drafting assistance, and criminal cases such as child abuse, assault, rape and sexual assault. Paralegals do not represent clients in court.

B. Best Practices

i. Outreach

Paralegal core duties include sensitization and community outreach. CIRDDOC conducts community outreach to address community concerns and to reflect important national issues. For instance, during elections, CIRDDOC holds community workshops on civic education to educate community members on the process of civic participation, voting and governmental structure. Once paralegals have been in a community for a significant amount of time, they identify recurring problems in the community and design outreach and sensitization campaigns to address those challenges.

ii. Training & Paralegal Qualification

CIRDDOC trains paralegals to utilize alternative dispute resolution techniques, specifically mediation and negotiation skills. During their initial two-week residential training, paralegals study basic areas of law, including criminal law and civil procedure. Gender-based violence issues are a component of their training in criminal law. Lawyers as well as experienced activists, academics, and paralegals in the field teach the training sessions.

Paralegals are required to have a high school education.

¹⁰ Information for this section comes from the CIRDDOC website <http://www.cirddoc.org>, the CIRDDOC 2006 Annual Report, and from phone interviews with Executive Director Oby Nwankwo on 09/2008 and Uju Obiora, Program Officer at the Boll Foundation on 9/2008.

iii. Case Management

CIRDDOC seeks to bring criminal cases involving violence to court. CIRDDOC, however, also presents the option of settling criminal cases out of court. If the parties choose this option, CIRDDOC will draft terms of agreement, including provisions on the payment of damages and restitution, for both parties to sign.

CIRDDOC maintains files on every client in the legal aid center or the community information center. Paralegals handle an average of ten cases per month and are required to file monthly reports to the head office before they receive their salary. In training, the paralegals learn filing and reporting procedures.

iv. Supervision

Program officers from CIRDDOC and the Heinrich Boll Foundation supervise paralegals. Program officers conduct unannounced monthly visits to the paralegals in their community.

CIRDDOC holds quarterly team meetings with paralegals and lawyers to share ideas and experiences. The quarterly meetings are held in different regions, and although every paralegal is not able to attend each meeting, as many staff members participate as possible. CIRDDOC also holds an annual evaluation workshop for all paralegals, lawyers, and staff members. These evaluation workshops function as yearly refresher trainings on areas such as criminal and property law. Volunteer lawyers from the Nigerian Bar Association help lead the refresher trainings.

v. Legal Referrals

CIRDDOC has a high rate of legal referrals because the organization employs several lawyers and partners with a private law firm that handles cases pro bono. While paralegals offer free legal advice, they do not represent clients in court. Paralegals often refer criminal cases such as rape to private lawyers. In 2007, CIRDDOC paralegals received 217 cases and referred 55 of those cases to lawyers.

vi. Gender-Based Violence

CIRDDOC will not mediate cases of rape as a first option. However, CIRDDOC notes that because survivors and their families are often very reluctant to follow through with cases in the formal court system because of the stigma associated with rape, CIRDDOC is willing to negotiate settlements and draw up agreements, including restitution payments, in cases involving sexual violence. The Leitner Clinic does not characterize CIRDDOC's willingness to mediate cases of sexual violence as a best practice; the Clinic believes that rape cases should never be

compromised. Survivors should be educated about the legal process and encouraged to report the case to the police for prosecution.

CIRDDOC favors reconciliation in domestic violence cases because the organization is concerned that women will not have financial support if they separate from their husbands. In domestic violence cases, CIRDDOC speaks with each party separately and with their consent mediates with both parties together.

vii. Advocate/Mediator Dilemma

Paralegals use mediation with the aim of reducing litigation, which is expensive and time consuming. The paralegals aim to be neutral during mediations.

viii. Traditional Authorities & Police

CIRDDOC works closely with traditional leaders in order to gain respect and enhance CIRDDOC's work in the community. Traditional leaders often nominate community members to become paralegals, which is one reason that CIRDDOC has not encountered much resistance from traditional leaders. Before commencing work in a community, CIRDDOC carries out advocacy visits to traditional authorities. When CIRDDOC is established in a community, they involve the traditional leaders at various levels; some of the leaders even supervise the management of the legal aid clinics in the community offices. Although the Leitner Clinic commends CIRDDOC's outreach efforts to traditional authorities, their model may give too much power to traditional leaders. Allowing traditional leaders to both nominate paralegals as well as supervise management of paralegal aid clinics may compromise the paralegals' perceived independence in the community.

CIRDDOC works closely with the police to prevent illegal arrests and detentions.

ix. Sustainability and Government Recognition

The Ford Foundation and the Heinrich Boll Foundation fund CIRDDOC. The Heinrich Boll Foundation grants provide for office set-up and supplies. Sometimes, CIRDDOC will ask a traditional leader to donate office space in the community.

x. Challenges and Keys to Success

Challenges

- **Tradition.** CIRDDOC has found it difficult to handle traditional customs and challenges, particularly discrimination against women and family law matters.

- **Legitimacy.** Often, one party will not respond to an invitation for mediation, or a party who has participated in mediation will not respect CIRDDOC’s ‘verdict.’
- **Funding.** Some paralegals do not have other sources of income and their stipends are inadequate.

Successes

- Paralegals partner with community information centers and legal aid clinics. These partnerships give the paralegals high visibility in the community.
- Paralegal services are free, convenient and close to the community. CIRDDOC’s services and resolutions are speedy compared to the Nigerian court system, which is one reason that community members choose to come to CIRDDOC.

xi. Contact Information: Civil Resources Development Documentation Centre (CIRDDOC)

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Clinique Juridique Deme So,¹¹ Mali

A. Introduction

Deme So was created to provide greater access to justice to rural Malians. The NGO has approximately 90 paralegals in rural areas who provide legal advice, refer cases to attorneys, conduct mediations, and coordinate educational campaigns on human rights. Deme So has a team of lawyers that takes cases to court when necessary.

B. Best Practices

i. Training and Paralegal Qualifications

Deme So paralegals are chosen by their communities based on their qualifications, including their level of education, character, and willingness to stay in the village to serve as paralegals. All paralegals are required to read and write French.

Deme So trained 60 paralegals in early 2007. Equal numbers of men and women were trained. Trainings are eight days long, and no more than twenty paralegals participate in each training session. Deme So trains the paralegals pursuant to the nine themes of the national training curriculum: the civil state, access to justice, land, women's rights, children's rights, democracy, decentralization, human rights, and conflict prevention.

After the initial eight-day training, paralegals participate in an annual training session.

ii. Case Management

Deme So paralegals maintain case folders for each client and use forms to record costs and client interactions. Paralegals advise clients of their rights and mediate disputes using both statutory and traditional law.

iii. Supervision

The training coordinator and national coordinator review paralegals three times a year. Deme So agents on the local level also review paralegals' work.

¹¹ Information for this section comes from a phone interview conducted on 30/09/08 and emails received on 9/22/2008, 9/23/2008, 9/26/2008, 9/29/2008, 11/28/2008 with National Coordinator I. Koreissi.

iv. Gender-Based Violence

When paralegals are confronted with domestic violence and sexual violence cases, they teach the woman about her legal rights. If the survivor is willing, cases are submitted to courts, the gendarmes, mayors, or other local authorities.

Paralegals often mediate domestic violence cases because women generally do not have access to courts, and the courts often lack strong comprehension of gender-based violence cases. Outcomes of mediations include working towards restitution for the survivor and establishment of peace in the home.

The paralegal is a neutral party during the domestic violence mediation. When Deme So mediates cases of domestic violence, the parties are not in the same room. The paralegal listens to each party's version of the events, synthesizes the information, and then shares the information with both parties and attempts to broker an agreement. The paralegal also gathers information from third parties, including parents, relatives, village chiefs, religious leaders, and any other influential parties.

Although Deme So encourages women to return to their homes, they will not do so until they obtain guarantees for the woman's safety.

If the mediation fails, Deme So refers the situation to higher authorities. If the violence was severe and could give rise to criminal charges, the paralegal will refer a failed mediation to the local government authorities. If the incident between the parties was not severe, Deme So informs the village chief and encourages him to resolve the problem through traditional methods. If the survivor wishes, the entire community will sanction the person who caused the mediation to fail under customary law.

For the Leitner Clinic's analysis of the advocate mediator dilemma in domestic violence cases please refer to the "Advocate/Mediator Dilemma" section in part II of this handbook.

v. Traditional Leaders

Because Deme So only places paralegals in villages that have requested one, they do not encounter much conflict with traditional leaders. Deme So also trains traditional leaders about the role of a paralegal so that chiefs do not perceive paralegals as a threat to their authority.

vi. Sustainability and Government Recognition

When Deme So was founded, it paid paralegals, but due to funding restrictions all paralegals are now volunteers. Some villages provide paralegals with makeshift offices or other types of support as acknowledgment of the benefit the paralegals bring to the community.

In Mali, a national paralegal board exists to develop paralegal training programs. The Mali government believes paralegals are a useful tool for expanding access to justice, increasing confidence in the judiciary, and creating knowledge of the country’s civil code in rural areas, where traditional and religious law predominates. In 2006, public and private stakeholders established a national paralegal training curriculum during a three-day conference.

In 1998, parties from Burkina Faso, Guinea, Mali, Niger and Senegal created a paralegal statute that was adopted by NGOs at a regional paralegal stakeholders meeting.

vii. Challenges

Deme So would like to better train and supervise the paralegals and improve their working conditions, but they do not have the resources. They would also like the state to play a larger role in providing access to justice in the rural areas by funding the paralegals.

viii. Contact Information: Deme So

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Foundation for International Dignity (FIND),¹² Liberia

A. Introduction

The Foundation for International Dignity (FIND) provides legal services to survivors of gender-based violence in Liberia and educates communities about GBV. FIND's paralegals are divided into two groups: one group devoted to psychological assistance for GBV survivors and a second group devoted to legal assistance. FIND partners with the American Refugee Council (ARC).

B. Best Practices

i. Outreach

FIND's paralegals conduct community sensitizations about GBV in Liberia. When FIND initiates a relationship with a community, the paralegals first conduct a sensitization with the community leaders before they conduct sensitization with the larger community.

ii. Training and Paralegal Qualifications

Lawyers train FIND's paralegals. The initial training lasts for two weeks. Following the initial training, paralegals attend additional trainings on mediation.

iii. Supervision

FIND's experienced paralegals supervise the new paralegals in weekly review sessions.

iv. Gender-Based Violence

FIND's paralegals do not mediate domestic violence cases, but they do mediate family disputes that are not physically violent. When FIND mediates a family dispute, the paralegals first mediate with the parties separately and then bring the parties together for a negotiation.

FIND presents reconciliation as one of several options in domestic violence disputes.

v. Monitoring Courts and Customary Law Bodies

FIND's paralegals monitor clients' court cases. However, the paralegals use pro bono counsel to provide actual legal representation in these cases.

¹² Information for this section comes from e-mails exchanged with Marie Kolenky on 10/10/2008.

vi. Sustainability and Government Recognition

Because the government does not formally recognize paralegals in Liberia, court monitoring is a challenge. FIND believes government training of paralegals would strengthen the working relationship between paralegals and the formal courts.

vii. Challenges

When ARC and FIND began the paralegal program, they encountered numerous problems with prosecuting GBV cases in Liberia's courts. These problems included the following:

- Legal professionals knew very little about GBV and Liberian law;
- The court system did not view rape as a problem;
- The court system was corrupt; and
- International non-governmental organizations were perceived as foreign agents swooping in to deal with Liberian law.

FIND also had problems with employees. At first they had no management strategy, and thus no mechanism to deal with employees who made mistakes.

viii. Keys to Success

FIND used the ARC's well-established legal aid program in Guinea as a model for its own activities. They also partner with other NGOs, such as UNIFEM, UNDP, and OSIWA, which tackle similar issues.

FIND characterizes its keys to success as the following:

- Case monitoring;
- Moving cases through the court system; and
- Raising awareness in communities.

ix. Contact Information: Foundation for International Dignity (FIND)

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| Address | Monrovia |
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Legal Advice Center-Kituo Cha Sheria (KCS)¹³, Kenya

A. Introduction

Legal Advice Center – Kituo Cha Sheria (KCS) is a Kenyan legal services organization founded in 1973 that employs lawyers, volunteers and paralegals to provide legal representation and advice to the poor. KCS provides legal services through legal advice programs, legal representation, litigation, and community mobilization. KCS focuses on land and housing rights, labor rights, and, increasingly, refugee rights. KCS also conducts a mobile legal aid service.

B. Best Practices

i. Outreach

KCS engages in advocacy initiatives to empower the poor. For example, KCS launched a campaign against forced eviction in Nairobi by establishing a network of volunteer advocates in major towns throughout Kenya.

KCS paralegals function mostly as “monitors on the ground.” Although they engage in some mediation, their primary role is to recognize human rights violations and link the organization and the community.

KCS encourages paralegals to think of themselves as human rights activists and to form networks among themselves based on their interests. For instance, paralegals formed a network on environmental issues and now develop strategies for collective environmental advocacy.

ii. Training and Paralegal Qualifications

KCS recruits paralegals from the communities where they will work. KCS is a member of the Paralegal Support Network (PASUNE), a national paralegal coordinating group. PASUNE assists in training KCS paralegals and partnered with KCS to develop a paralegal training manual. Once paralegals have completed a short basic training, they are required to intern for three months at the KCS head office in Nairobi or Mombasa. KCS designed the internship to expose paralegals to all aspects of the organization’s work and to provide the paralegals with an opportunity to work closely with KCS’ lawyers.

KCS asks community leaders and chiefs to identify and recommend members of the community, especially women and youth, to become paralegals. KCS also often selects teachers to become

¹³ Information for this section comes from the KCS website www.kituo-chasheria.or.ke, a phone interview with Advocate & Executive Director Ekuru Aukot in 9/2008, and emails received from Deputy Director Dalmas Okendo and Soipan Tuya in 9/2008.

paralegals because they are respected and influential members of the community. Paralegals must have completed some form of primary education.

iii. Legal Referrals

KCS employs many lawyers. Paralegals conduct less mediation and focus on referring cases to the legal aid lawyers.

Although KCS does not have a rule against mediating gender-based violence cases, paralegals often refer GBV cases to lawyers because KCS has such a strong network of attorneys.

iv. Sustainability and Government Recognition

KCS receives support from donors as well as volunteer lawyers. KCS paralegals serve as links between the community and the organization, building the sustainability of the organization. Full-time paralegals are salaried; paralegals who work part-time in the community receive small stipends and are reimbursed for small expenses.

Although the government does not formally recognize KCS paralegals, the organization issues certificates to paralegals and some community members who work as advocates or volunteers within their network. KCS refers to this practice as “legal hosting.” Since KCS has a national reputation, a certificate of association from KCS is considered valuable to community members and paralegals.

v. Contact Information: Legal Advice Center – Kituo Cha Sheria

| | |
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Legal Assistance Center (LAC),¹⁴ Namibia

A. Introduction

The Legal Assistance Center (LAC) was founded in 1988 to fight for human rights in Namibia against the apartheid South African government and has evolved to meet the changing needs in Namibia. Namibia has a need-based legal aid program, but most people make too much money to qualify and yet not enough to afford to hire a private lawyer. Most are left without legal assistance. To bridge this gap, the LAC conducts a community paralegal program in conjunction with the Namibia Paralegal Association (NPA).

The LAC provides legal information and advice on HIV/AIDS, gender equality (including gender-based violence), human rights, and land, environment, and development; conducts community trainings and workshops; advocates for law reform; and litigates cases.

Paralegals are located in rural areas, where they conduct community sensitizations, mediations, and conciliations. LAC currently has 172 paralegals who work on a voluntary basis, the majority of whom are women.

The LAC's program has evolved over three phases. In the first phase, they trained 280 paralegals. In the second phase, they established eleven contact points throughout the country, five of which open full-time, and they continued to train active paralegals. In the third phase, LAC worked to make the National Paralegal Association independent and sustainable as they continued to provide training and logistical support to paralegals.

B. Best Practices

i. Paralegal Qualifications and Training

LAC paralegals are selected by their communities. They are required to read and write English, and they are trained on the basics of the law. Trainings include: the difference between traditional law and common law, child maintenance, inheritance, HIV/AIDS and human rights, communal land rights, labor law, laws on traditional authority, and communal area (land) conservancies. The University of Namibia has contributed to the program by training paralegals in mediation and conciliation.

LAC also trains paralegals on issues specific to their regions. LAC conducts regular regional training so that community sensitizations can address locally significant issues. For example, rural areas might have trainings on the legal aspects of fencing land, a topic that would not be relevant in an urban area.

¹⁴ Information for this section comes from the LAC website, www.lac.org.na and a phone interview with the regional coordinator of the paralegal program in 9/2008.

ii. Legal Referrals and Impact Litigation

The LAC ran advice centers staffed by both lawyers and paralegals, but due to funding issues many of the centers are closing. Paralegals, however, continue to refer cases and assist attorneys. They draft wills and represent clients in labor courts. Although they cannot represent clients in other courts, they collect evidence, take statements, and gather the necessary documents lawyers need to litigate.

Paralegals refer many cases to lawyers, including land disputes, labor, child support, assault, domestic violence, and inheritance disputes primarily involving women. Of the cases that are referred, LAC lawyers tend to take public interest cases that will impact the community. They represent clients in cases that might create a new rule, change an existing law, or challenge a discriminatory practice or policy.

The LAC lawyers specialize. One lawyer, for example, represents clients in the most serious or difficult cases, another represents clients in divorce cases, and so forth. The paralegals also refer cases to other organizations, including organizations that are better able to mediate certain issues at the local level.

iii. Gender-Based Violence

All LAC paralegals are trained on issues of gender-based violence and gender equality. Paralegals have various reactions to these trainings depending on their individual beliefs, but the majority of the paralegals accept women's equality and oppose gender-based violence.

When paralegals receive a complaint of gender-based violence, they inform the Namibia Police Child and Protection Unit. Paralegals do not refer gender-based violence cases to lawyers unless the case involves the public interest. Most divorces cases are referred to the Ministry of Justice's Legal Aid department, although LAC lawyers occasionally handle divorces as well.

Paralegals conduct community education projects on domestic violence, using pamphlets and radio shows in English and local languages.

iv. Land disputes

The LAC believes that land disputes are too complicated for paralegals to resolve without undermining their independence in the community. Paralegals immediately refer land dispute cases an LAC lawyer. Land issues are very sensitive in Namibia, and the lawyers are considered neutral third parties. Once they refer the case, paralegals assist the lawyer to gather evidence.

Recently, LAC attorneys have litigated land cases that focus on the property rights of women and children, especially as related to the inheritance law.

v. Traditional Authorities

Traditional authorities posed a challenge for the LAC when they began the community-based paralegal program. Chiefs were often unaware of new laws. And because they had not received good training and were not compensated by the government, they did not feel compelled to apply statutory law in their traditional forums. Now, the LAC trains the traditional authorities on the Land Reform Act and the laws that govern customary chiefs. They also educate the chiefs to use the paralegals as a tool to help implement statutory law.

vi. Sustainability and Government Recognition

Funding continues to be a serious concern for the LAC as they have been forced to close some of their advice centers.

Funding Constraints

The LAC is completely funded by foreign donors. They are trying to obtain government funding, but they have encountered significant resistance. Government officials may not see their interests as aligned with the LAC, because the LAC has challenged unfair government practices and corruption. The LAC is also negotiating with the University of Namibia to create a new paralegal program.

Volunteer Paralegals

The LAC paralegals are volunteers, and they often have other jobs. Some are NGO workers or police officers. To supplement their income, a few paralegals began illegally charging clients for their services. They are now facing criminal charges.

Partnerships with NGOs/CBOs

The LAC links each paralegal with a local NGO or CBO in the community she serves. The local partner often allows the paralegal to use their office space and communication tools. A recent review indicated that working with local NGOs and CBOs made the paralegals' work more effective and sustainable.

vii. Challenges

The LAC conducted a two-month needs assessment of the paralegal program in 2005. The assessment revealed multiple issues. The LAC concluded that the paralegals needed more training on laws covering labor, crimes, domestic violence, maintenance, and communal land reforms.

After the needs assessment, LAC began conducting regional visits. The visits revealed communication breakdowns between paralegals in the same region, low paralegal commitment to their work due to lack of financial incentive, lack of community support, lack of community structures to publicize the work, internal leadership struggles, and lack of basic resources.

After the assessment and regional visits, the LAC has conducted further training to address some of these challenges.

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| Website: | www.lac.org.na |
| Contacts: | Victor Mutumbulwa, Regional Coordinator of Paralegal Program |

Legal Resources Foundation (LRF),¹⁵ Zimbabwe

A. Introduction

The Legal Resources Foundation (LRF) runs urban, suburban, and rural legal advice centers, staffed by paralegals and monitored by attorneys. LRF trains paralegals that are associated with other organizations.

LRF continues to provide services despite the often violent political situation in Zimbabwe. LRF now staffs twenty-nine offices with a total of fourteen lawyers and forty-four paralegals. Half of the paralegals work in advice centers in urban areas, and the other half are spread throughout seven of the country's eight rural areas.

B. Best Practices

i. Outreach

Community members learn about the paralegals and the services they provide through their village headman and other community leaders. LRF educates community leaders about their paralegal services and asks them to spread the word. They also advertise their services through local clubs and businesses.

ii. Training and Paralegal Qualifications

LRF only employs paralegals who meet certain guidelines. The most important factors include maturity, experience with community work, and commitment to helping others learn about and exercise their rights. LRF also has formal criteria; paralegals must:

- 1) Be at least 25 years old (to instill confidence in the community);
- 2) Have at least five "O" levels, or high ability in reading and writing English;
- 3) Have previous experience in community education or volunteer service;
- 4) Have strong ties to the district where the position is located;
- 5) Be willing to reside full-time in the district and provide their own housing;
- 6) Speak local languages;
- 7) Demonstrate respect and empathy for the disadvantaged; and
- 8) Have no criminal record.

¹⁵ Information for this section comes from the LRF website, www.lrf.co.zw, a telephone interview with the LRF Director Deborah Barron in 9/2008, and emails from Ms. Barron, on 9/17/2008, 9/18/2008, 9/23/2008, 9/29/2008, and former LRF legal intern Katherine Hughes on 9/15/2008.

LRF provides a fairly long and comprehensive training program. Each paralegal is assigned to a project lawyer who oversees their skills development. Training is divided into four parts: two practical on-the-job training courses and two residential courses. In the practical phase, paralegals are supervised by lawyers and use written paralegal manuals to guide their work.

The training program aims to provide:

- 1) Education about Zimbabwe's government structure, dualist legal system, human rights, family, gender violence, labor laws and rules of procedure;
- 2) Skills in community education, casework, alternative dispute resolution and community mobilization; and
- 3) Attitudes appropriate for working with disadvantaged communities.

After the full course, paralegals can sit for a Paralegal Certificate examination. The certificate is recognized by the Council for Legal Education, a body comprised of eight attorneys appointed by the Justice Minister to oversee education requirements in the legal profession.¹⁶ There is a new certification program every six months.

Practicing paralegals are provided with ongoing training. Once a year, the LRF holds a national paralegal conference for legal updates and skills development. A minister and a magistrate also recently led a training for all the paralegals on the new domestic violence and labor laws .

iii. Case Management

The paralegals handle an average of thirty-eight cases a month. Paralegals each work in their own offices. Most offices are rented by LRF, and a few have been donated by the community.

At each intake, paralegals fill out standard intake forms and create a new file. Paralegals keep a register of all of their cases, and they review each file periodically to ensure that they are following up appropriately. The supervising attorney also reviews their files periodically.

LRF paralegals focus on mediation and negotiation. Paralegals do not have the right to appear in court, but they assist in negotiations, inform citizens of their rights, conduct fact-finding, and conduct community education, often by radio.

Once a week, lawyers travel to the rural areas to meet with the paralegals to discuss challenging cases. Paralegals often ask the attorneys for legal advice and continue handling these cases themselves, but they will refer clients who need formal representation in court.

¹⁶ Otto Saki and Tatenda Chiware, The Law in Zimbabwe (Feb. 2007), available at <http://www.nyulawglobal.org/globalex/zimbabwe.htm>.

iv. Gender-Based Violence

LRF paralegals do not have a standard protocol for domestic violence (DV) cases. Paralegals undergo training on the sociology of domestic violence. They often refer women to other NGOs and help women apply for and receive restraining orders, peace orders, and maintenance payments.

LRF educates the community about women's rights, including the right to be free from violence under national law. LRF has created a brochure on domestic violence that it distributes in communities, and paralegals often use it to guide their actions in domestic violence cases.

LRF informs the police in most domestic violence or child abuse cases. If the police do not act on the report, the paralegals advise a supervisor at the police department. If a woman is not ready to report to the police, LRF refers her to a separate NGO for counseling.

Paralegals do not mediate domestic violence cases between husband and wife, but they do mediate between a survivor and her extended family. They encourage her family members to allow her to leave her abusive husband and return to their homestead. The paralegals begin the mediation by explaining that the statutory law protects women's rights and prevails over customary law. Once the family understands the law, they tend to be more accepting of the survivor.

Note that LRF paralegals do not handle rape cases; they refer these cases immediately to the criminal justice system.

v. Traditional Leaders

Paralegals have strong relationships with traditional authorities. Before LRF places paralegals in a village, lawyers talk to the traditional leaders and train the leaders on statutory law. The training includes an introduction to women's rights, domestic violence law, and inheritance law. After this training, the village chiefs are more willing to accept the paralegals into the community and often send women to the paralegals.

The chiefs generally are not resistant to the paralegals because they consider paralegals to be problem solvers with a different specialization. For example, a chief knows that if he settles a domestic violence case under customary law, the outcome may violate statutory law. He may refer this case to a paralegal instead. Chiefs are generally more concerned with issues involving land. Here, too, the paralegals can offer advice on the statutory law.

At the village level, LRF paralegals also have a good relationship with the police. Paralegals conduct community outreach sessions targeting the police officers, and the police community liaison monitors the paralegals.

vi. Sustainability and Government Recognition

LRF is funded primarily by foreign donors, with government and community support. When LRF began, the government paid the salaries of some of the administrators because it recognized that they were filling a gap in the legal system by providing legal aid. Now, some local businesses continue to support LRF by providing free services such as free internet.

All paralegals are paid. Some paralegals also serve in other community positions, such as members of committees concerned with protecting children from abusive practices.

vii. Challenges

The biggest challenges LRF currently faces are due to Zimbabwe's political and economic instability. The breakdown in the economy has made it difficult for the paralegals to have regular access to transportation and telephone communication, and programming has become almost impossible due to budget-breaking inflation. Paralegals are fearful and have encountered some hostile authorities. But most government officials recognize that the paralegals are not political and therefore do not interfere with their work.

viii. Keys to Success

LRF reports that paralegals are respected and positively received in their communities. Trust in the community has allowed LRF to function more normally than other NGOs during Zimbabwe's political crisis.

The key to the success of the LRF paralegal program is its flexibility and responsiveness to people's needs. The Director marvels at how the paralegals are able to stay motivated despite all the obstacles they currently face; many have been employed by LRF for a long time. She thinks that paralegals may be committed to the program because they are paid in U.S. dollars, have a secure job, and believe in what they do.

ix. Contact Information: Legal Resources Foundation (LRF)

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Legal Rights and Natural Resources Center–Kasama sa Kalikasan (LRC-KSK),¹⁷ The Philippines

A. Introduction

The Legal Rights and Natural Resources Center–Kasama sa Kalikasan (LRC–KSK) works primarily with marginalized indigenous people who live in rural communities in the Philippines and are dependent on natural resources.

The LRC–KSK partners with twelve communities at a time. The organization strives to help the partner community to own, use, manage, and conserve natural resources in a way that is democratic, sustainable, ecologically and culturally appropriate, economically viable, and gender-just. To effect social change and maximize the human rights of its target population, the LRC–KSK uses both advocacy and direct legal services tools.

LRC–KSK believes that advocacy and legal services complement each other to protect the rights of indigenous people. The LRC–KSK program is designed to use both tools with “campaigns paralegals” and “law paralegals.” LRC-KSK trains community members as campaigns paralegals to assist with cases in the partner community. The law paralegals are permanent LRC–KSK employees who provide legal services to LRC–KSK’s partner communities. The LRC-KSK employs 26 people.

B. Best Practices

i. Outreach

The LRC–KSK is firmly established in the Philippines and now relies mostly on word of mouth for publicity. As information spreads, the LRC–KSK forms new partnerships and begins to work with new communities.

LRC–KSK paralegals conduct community education sessions about human rights issues. The paralegals select the topics for the community education sessions based on the needs of the community where the session will be conducted.

ii. Training and Paralegal Qualifications

LRC–KSK paralegals must possess three basic qualifications:

1. Knowledge about the indigenous communities where the paralegals will work;

¹⁷ Information for this section comes from The LRC–KSK website <http://www.lreksk.org> and from e-mails exchanged with Staff Lawyer Rhia Muhi.

2. Strong people skills; and
3. Legal research and writing skills.

All LRC–KSK paralegals must go through an initial paralegal training course where they learn the basic information and skills they will need as paralegals. Experienced paralegals are invited, and sometimes required, to attend advanced training courses to learn skills that are useful in the specific communities where they work.

iii. Case Management

LRC–KSK perform the following functions:

- Conduct fieldwork in LRC–KSK partner communities;
- Train new paralegals and conduct issue briefings in LRC–KSK partner communities as well as in local support groups and networks;
- Provide initial assessments of potential LRC–KSK partner communities; prepare community profiles and strategy papers; assist the LRC–KSK regional team leader to coordinate efforts with local lawyers retained by the LRC–KSK;
- Assist lawyers with litigation;
- Conduct legal research and then provide appropriate recommendations to LRC–KSK partner communities; draft basic legal documents, such as advisory memos to LRC–KSK partner communities; facilitate discussions among LRC–KSK partner communities and local support groups regarding legal options and strategies;
- Help form community paralegal teams;
- Maintain the LRC–Cask’s internal filing system; and
- Manage and maintain the LRC–KSK’s legal library.

iv. Supervision

The LRC–KSK has a hierarchical organization structure. It has one central office and three regional offices spread throughout the Philippines. The executive director and a legal coordinator in the central office coordinate the paralegals and review their work. Two campaigns paralegals, one law paralegal, and a team leader work in each regional office and submit their work to a central office for coordination and review.

The LRC–KSK employs seven lawyers. The lawyers and paralegals continuously share information about projects and work together to decide which communities to partner with and which projects to accept.

v. Land

The LRC–KSK believes that land insecurity greatly contributes to poverty, marginalization of indigenous people, and human rights violations. For this reason, the LRC–KSK works to combat land insecurity and handles many land disputes.

The LRC–KSK primarily handles land disputes that fall into the following categories:

- Conflicts between transnational corporations and ancestral domain rights;
- Conflicts over agricultural land; and
- Conflicts over forest resources.

The LRC–KSK often tries to assert and protect indigenous people’s ancestral rights to land and their right to abide by customary law.

vi. Sustainability and Government Recognition

Like many legal services organizations, the LRC-KSK has limited resources and man-power. The LRC-KSK will work with a partner community until that community has the tools and independence to assert its rights on its own; and then the LRC-KSK will move on to partner with a new community.

The LRC–KSK developed its Campaigns Paralegal Training Program (CPTP) to ensure the sustainability of its work. When the LRC–KSK decides to partner with a community, the LRC–KSK enrolls approximately four community members in a structured paralegal training program. The community is asked to select both male and female members to participate, and often the community will invest in their future and choose young people. The LRC–KSK trains these paralegals with the skills they will need to advocate for the partner community on the particular issue facing the community.

The LRC–KSK implemented the CPTP to ensure the sustainability of its work in partner communities. When the LRC–KSK completes a project and withdraws from a community, the CPTP paralegals will remain to serve as advocates in the future.

vii. Challenges

The LRC-KSK's primary challenges include security, access to information, and scarcity of resources to respond to the needs of the communities the LRC-KSK serves.

viii. Keys to Success

The LRC-KSK identifies the following qualities as the keys to the LRC-KSK's success: flexibility, endurance, patience, open-mindedness, familiarity with community service, dedication, and cohesiveness.

ix. Contact Information: Legal Rights and Natural Resources Center-Kasama sa Kalikasan (LRC-KSK)

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Madaripur Legal Aid Association (MLAA),¹⁸ Bangladesh

A. Introduction

The Madaripur Legal Aid Association (MLAA) primarily uses a traditional Bangladeshi arbitration mechanism called *salish* to resolve disputes. During *salish*, MLAA engages two feuding parties in a negotiation to find a mutually acceptable resolution. *Salish* is often successful because both parties are engaged in formulating a mutually-agreed upon resolution.

MLAA prioritizes representation of women because they believe that women face more social and economic disadvantages than men. MLAA-administered *salish* gives more voice to women than community-administered *salish* and is thus more fair to women.

B. Best Practices

i. Outreach

MLAA identifies local contacts in communities and uses these contacts to spread information about MLAA-administered *salish* as an available alternative to the court system and community-administered *salish*.

ii. Case Management

MLAA workers follow up on settlements to ensure that all parties are complying with the terms of the agreement. MLAA brings the parties back to MLAA for further mediation if they are not abiding by the terms of the settlement. If *salish* ultimately fails, MLAA informs the community of the failure and the formal justice system intervenes.

iii. Monitoring Courts and Customary Law Bodies

MLAA Involvement in Community-Administered *Salish*

To administer *salish*, MLAA first forms mediation committees who will conduct the actual mediations. MLAA trains the committee members in human rights, law, and the mediation process. The committee members are volunteers who receive no compensation.

One MLAA worker supports each committee and performs the following tasks:

¹⁸ Information for this section comes from Penal Reform International, *Index of Good Practices in Providing Legal Aid Services in the Criminal Justice System* (Feb. 2006), [available at](http://www.penalreform.org/index-of-good-practices-in-providing-legal-aid-services-in-the-criminal-justice-s.html) www.penalreform.org/index-of-good-practices-in-providing-legal-aid-services-in-the-criminal-justice-s.html

- Receives applications for mediation;
- Sends letters to concerned parties;
- Arranges mediation sessions;
- Supervises mediation sessions; and
- Monitors the resolution and reports to the head office.

MLAA feels that staffing each mediation committee with an MLAA worker ensures a more equitable administration of *salish*.

MLAA Involvement in Village Courts

Village courts are institutions where local government and village representatives resolve petty civil and criminal cases. The village courts aim to find an amicable settlement of a case instead of punishing the wrongdoer. The village courts are defunct in many villages in Bangladesh and MLAA is working to revive them. To accomplish this, MLAA workers attach to each village court and assist with its basic functioning. The MLAA workers perform the following tasks:

- Assist with documentation;
- Serve legal papers; and
- File documents

The village courts provide a fast, fair, and inexpensive alternative to the formal justice system and community-administered *salish*. The formal court system and community-administered *salish* are slow, expensive, and biased in favor of privileged parties.

v. Contact Information: Madaripur Legal Aid Association

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|------------------------|--|
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National Alliance for the Development of Community Advice Offices (NADCAO),¹⁹ South Africa

A. Introduction

South Africa has approximately 750 paralegals, the majority of whom work in rural communities and towns that do not have access to the formal legal aid system. South Africa's paralegal and community advice center programs were created during apartheid to help fight state repression and have since shifted to focus on socio-economic rights. Organizations are now advocating for national recognition of paralegals.

The National Alliance for the Development of Community Advice Offices (NADCAO) is an organization of stakeholders committed to access to justice in South Africa, including the sustainability, accessibility, and professionalism of paralegals. NADCAO members include organizations that train and utilize paralegals as well as organizations that fund community advice offices.

Last year, the Indiba-Africa Development Alliance conducted a full assessment of NADCAO. This section is based on their report, *Research on Sustainability Options for the Advice Office Sector in KwaZulu-Natal*, which highlights the strengths and weaknesses of NADCAO. Its recommendations may be useful for organizations facing similar challenges.

B. Best Practices

i. Outreach

The report recommends increased regulation and training of paralegals and a media campaign to improve their public perception. Increased public awareness of the paralegal program assists the advice offices to recruit members and volunteers and encourage donors from the local community.

ii. Case Management

NADCAO runs a national paralegal case management system used by many paralegal organizations. The system is electronic and requires a password for access.

iii. Sustainability and Government Recognition

¹⁹ Information for this section comes from an email from Langelihle "Langa" Mtshali on 30/09/08 and *Research on Sustainability Options for the Advice Office Sector in KwaZulu-Natal*, submitted to NADCAO by the Indiba-Africa Development Alliance, 15/10/07.

In 2002, the *Legal Practice Bill 2002* was introduced in South Africa’s legislature to define the role of paralegals in the South African legal structure and give paralegals the right to appear in court on certain matters. Unfortunately, the bill is still pending. The Legal Practice Bill would provide national recognition of paralegals as professionals and integrate them into the formal legal structure.

If the Bill is enacted, it will allow for the implementation of the *Legal Services Charter*. The Charter recognizes paralegals and advice offices as providers of legal services. It defines a paralegal as “a person who has knowledge and understanding of the law, its procedures and its social context acquired through training, education, work experience and/or a national registered qualification in paralegal practice.” Under the Legal Services Charter, a National Regulatory Body will be established to set standardized qualification levels, register all paralegals, and deal with complaints. The Charter will also create a body to represent paralegal needs at the national level and will require law professors to provide training to paralegals.

The NADCAO report notes that encouraging a “culture of volunteerism” in South Africa will contribute to sustainability by increasing the amount of people willing to work in advice offices. The report recommends all advice centers register as legal organizations, as this will help to access local and international donor funds. Engaging local philanthropic, corporate and government support is necessary to sustain the programs as foreign aid becomes directed elsewhere.

The study authors met with the regional representative of the Department of Justice (DoJ) to discuss the paralegal programs, and the DoJ committed to pay a stipend to each paralegal working in an advice office. The stipend will be awarded to paralegals who work on the following matters: maintenance applications, domestic violence, and community education on the Service Charter for Victims of Crime, restorative justice, bail, Small Claims Court, equality legislation, and human rights. The Department of Justice also offered paralegals use of their computers. The stipend amount will be reviewed annually.

iv. Challenges

The report on NADCAO found that paralegals have a negative public image because some paralegals are poorly trained and act unprofessionally.

v. Contact Information: NADCAO

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|-----------|--|
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Paralegal Advisory Service Institute (PASI),²⁰ Malawi

A. Introduction

The Paralegal Advisory Service Institute-Malawi (PASI) has been conducting legal services work in Malawi since 1998 and recently expanded their paralegal program.

PASI's programmatic work has followed three phases. In 1998, they began training paralegals to offer legal advice in prisons to reduce overcrowding and harsh detention conditions. This prison program is still the backbone of PASI's work. Today, the prison program operates in every prison in the country and employs 38 paralegals (60% men, 40% women).

In 2004, PASI expanded their prison program into police stations in order to promote defendants' rights at arrest and interrogation. PASI has developed a good relationship with the police and has helped develop sound policies to protect the accused. The police now invite paralegals to be present during their intake procedures.

In 2008, PASI started a pilot program to provide community-based paralegal services, including mediation and community dispute resolution. The new community paralegal program is modeled on the Madaripur Mediation Model used in Bangladesh and aims to divert people away from the criminal justice systems. The program will work at the community level, training community members in mediation.

B. Best Practices

i. Outreach

Police & Prisons

The paralegals in the police program conduct several kinds of trainings and community education workshops. Trainings and prison paralegal work is mostly conducted in group sessions; PASI paralegals do not represent individual prisoners.

At the police station, paralegals train arrestees on bail procedure so that they can defend themselves in court. At the prison, trainings are designed to help prisoners understand criminal law and procedure. Prison paralegals also work with witnesses to explain the court process; they then follow up with these witnesses to make sure that they come to court.

Community

²⁰ Information for this section comes from the Malawi Governmental Department of Prisons website, <http://www.mps.gov.mw/paralegal.htm>, phone interviews with Director of Penal Reform International-Malawi Marie-Dominique Parent in 9/2008 and PASI-Malawi National Director Clifford Msiska, in 09/2008.

PASI organizes and facilitates trainings that benefit traditional leaders, community members and officers within the criminal justice system, including child protection officers, police officers and probation officers. The trainings emphasize the importance of diversion techniques as well as principles of criminal justice and court procedures. Community trainings emphasize topics such as police and court bail guidelines, mandatory remand period, evidence, principles of sentencing, court social reports, rights of children under arrest or in detention, the roles of parents and guardians, and witness procedures.

These meetings and trainings familiarize community members with criminal justice procedures and provide a platform for community members to interact with stakeholders in the criminal justice system, including police officers and prison officials. In many communities, cases are not reported to the police or relevant authorities because people do not know that the courts or the police can handle these kinds of disputes. These meetings demystify the legal process and raises community awareness of the kind of cases that they can bring to the criminal justice system.

ii. Training and Paralegal Qualifications

Almost all of PASI paralegals work in prisons and the police stations. Most paralegals are in their late 20s or early 30s. PASI requires that paralegals speak English. To ensure that paralegals can read and write, PASI requires that they have completed secondary education. PASI often hires paralegals with backgrounds in social work or community organizing, as these skills are useful in the prison.

PASI has an 18-month training process. Paralegals take an exam to earn a basic certificate and then undergo intermediate and advanced certification stages. The basic certificate training course covers the basic work of the paralegal in prison over a four month period. The course includes an introduction to basic criminal law and procedure, interviewing techniques, monitoring and reporting. Once paralegals complete the basic course, they begin their work in the field and continue to study coursework by correspondence.

There is an additional training program for prison paralegals. The program partners with stakeholders in the criminal justice system to build trust between PASI and the prison officials.

PASI has a training manual that is divided into two parts. The first trains paralegals in basic criminal law and procedure. The second uses interactive training techniques, such as drama and theater.

iii. Case Management

National Database

PASI tracks all of its activities in a national monitoring, reporting and evaluation database. Paralegals can organize information in one central location and access and share the information easily. They use standard forms to input data uniformly, avoiding redundant and useless data in

the system. Because paralegals interact with all of the criminal justice departments and prisons in the country, this database is a very useful source of updated information on data in the criminal justice system.

Reports and Meetings

Paralegals are required to report their activities. Their reports summarize all of the activities and meetings, including the number, names and status of prisoners who receive advice from the paralegals. Each prison paralegal team holds a weekly meeting to decide which paralegals will go to court, prison or the police station to conduct monitoring and other activities.

iv. Supervision

PASI has two layers of supervision. Each team of paralegals elects a “team leader” who provides guidelines and supervises the workload. The team leader ensures equitable distribution of work, conducts a daily debriefing, and generally helps the paralegals. Team leaders are in daily communication with coordinators at the national level, and they meet monthly to evaluate and report the paralegals’ activities.

A team consisting of a monitor, a director and a deputy tour the paralegal sites to continuously evaluate the program. This team meets with the paralegals as well as other stakeholders, including prison officials, clients and local magistrates, in order to holistically evaluate paralegals’ work.

v. Legal Referrals

PASI does not employ lawyers. They have a memorandum of understanding with the Minister of Justice and have developed relationships with the Malawi Law Society and the Women’s Law Association to provide pro bono assistance. When PASI encounters a case that is too complicated or too serious to be handled by the paralegals, they will refer the case to the lawyers who will either work on it as a pro bono initiative (private lawyers) or as part of their regular employment (state lawyers).

The lawyer’s associations in Malawi initially resisted the paralegal program because they perceived paralegals as competitors. PASI has attempted to defuse this concern by emphasizing that paralegals often do work that does not require a lawyer and that they actually create more work for criminal attorneys.

PASI has a strict rule that paralegals will not do any legal representation and has resisted when lay magistrates have pressured paralegals to represent clients. There are two reasons behind this rule. First, the Malawi Law Society would feel threatened by paralegals if they appeared to be replacing attorneys. Second, PASI’s main purpose, especially in the prison program, is to

decongest the prison system. Investing a lot of resources in one case would not be an efficient use of their time when they could be educating sixty to seventy inmates instead.

The Malawi Law Society has found paralegals to be very helpful when a particular prisoner requires urgent assistance. Whereas lawyers often do not have time to visit the prisons, paralegals are always present to respond to a crisis and provide information to the lawyer. The Malawi Law Society is considering granting paralegals a limited right of audience in specific courts to handle minor issues such as bail applications.

Paralegals may also be on the receiving end of referrals. The pilot community-based paralegal program is developing a referral mechanism out of the court to further reduce congestion in the court system. PASI envisions that if a court determines a case would be handled better outside of court, the court would refer the case to PASI for mediation.

vi. Police

The police program prevents abuses by police and diverts cases from prisons. In the beginning, the program focused on juveniles but now also deals with adult cases.

Initially, the police were more willing to work with PASI on juvenile cases. PASI maintains a “register” in police stations, so officers can call the paralegals to help screen juveniles, especially for possible diversion. Over time, the police have come to appreciate PASI’s role in adult cases as well. Citizens educated by PASI are better able to navigate the criminal justice system. For example, parents are willing to work with the police in cases involving their children; witnesses are more likely to appear in court; and suspects understand court procedures.

Paralegals also undertake some of the work previously done by the police, such as tracing parents of a child suspect and witnesses. Subsequently, police have become comfortable with paralegals working in police stations, talking to suspects, inspecting cells, and being present when police officers record statements from suspects.

vii. Sustainability and Government Recognition

Paralegals are paid on a monthly basis, and their salary is raised incrementally when they complete additional trainings. Bound by a code of conduct, they are not allowed to solicit fees.

Initially, PASI-MALAWI was funded by international donors with a long-term goal of shifting to government funding. The international donor community established a legal aid basket fund for the government so that the government could pay PASI paralegals directly. This indirect funding scheme seems to have failed; as of this date paralegals have not been paid for three months. Its failure highlights the challenge of funding paralegal programs through the government, especially in resource poor countries.

PASI opposes formal accreditation of paralegals in Malawi. PASI strongly believes that a formal accreditation program would eliminate all their paralegals who work at the community level. These paralegals may not have much education or even training, but they effectively solve community problems. Marie-Dominique Parent, the Director of Penal Reform International in Malawi, prefers a “module” approach to accreditation: paralegals who work in a specific field, such as prison work, should be trained and accredited for that specific kind of work.

viii. Elements of Success

- Decrease in the prison remand population (those inmates still awaiting trial);
- A management style focused on coordination and communication;
- Team work;
- Continuous training; and
- Carefully planned program expansion.

ix. Contact Information: Paralegal Advisory Service Institute

| | |
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SALIGAN,²¹ The Philippines

A. Introduction

SALIGAN provides legal support services to marginalized populations in the Philippines who face specific legal issues. These marginalized populations include workers, resource-poor farmers and fishermen, and survivors of gender-based violence. SALIGAN has separate programs to address the needs of each target population.

SALIGAN has trained between 100 and 200 paralegals. Approximately 30 paralegals staff each SALIGAN program. SALIGAN also employs approximately 20 lawyers who are spread across SALIGAN's three branch offices.

B. Best Practices

i. Outreach

SALIGAN's paralegals conduct "echoing sessions" in the communities where they work. During these echoing sessions, the paralegals share with community members the information that the paralegals learn in their trainings.

SALIGAN's paralegals cater their echoing sessions to the specific needs of the community where the session takes place. They use a basic template and modify it for each echoing session to cover a particular topic, such as workers' rights, women's rights, and resource tenure improvement for farmers and fishermen. Lawyers sometimes participate in these echoing sessions with the paralegals.

ii. Training and Paralegal Qualifications

SALIGAN does not have academic requirements for paralegals. The majority of SALIGAN's paralegals are literate, but SALIGAN has trained some illiterate indigenous people to work as paralegals. SALIGAN requires that paralegals working on a specific program share a relevant common identity trait with the program's target population. For example, only female paralegals staff SALIGAN's women's rights program.

SALIGAN's paralegals must attend a weekly training session during their first six months. At these weekly sessions the paralegals receive a basic legal education that includes substantive law and skills training.

²¹ Information for this section comes from SALIGAN's website <http://www.saligan.org> and from a phone interview with Executive Director Arnold de Vera on 9/22/2008.

iii. Supervision

SALIGAN holds “clinics,” which are monthly meetings where paralegals and lawyers meet to discuss cases. At the clinics, paralegals seek advice from each other about their cases and lawyers educate paralegals about changes in the law.

iv. Legal Referrals and Impact Litigation

SALIGAN’s paralegals can refer a case to a lawyer when the legal issues become too difficult for the paralegals to handle. New paralegals refer cases to lawyers frequently. But as paralegals become more experienced, they require less assistance from lawyers and perform all necessary functions for effective representation.

v. Gender-Based Violence

Most of SALIGAN’s GBV cases involve domestic violence; this includes physical, psychological, and financial abuse. SALIGAN also handles rape and sexual assault cases. When SALIGAN’s paralegals work with GBV survivors who are pursuing their cases in court, the paralegals explain court procedure and substantive law. The paralegals also provide non-legal information for GBV survivors who are in crisis.

The Philippines recently overhauled its GBV legislation to provide more protection to GBV survivors. SALIGAN used the new legislation to sensitize communities to GBV and to spread information about the new laws.

vi. Advocate/Mediator Dilemma

SALIGAN does not provide strict guidance to paralegals about when they should act as advocates and when they should act as neutral mediators. But paralegals tend to act as advocates for their client in a dispute. In domestic violence mediations, SALIGAN’s paralegals always advocate for the survivor.

vii. Traditional Leaders

SALIGAN primarily works with indigenous populations to maximize their access to justice. SALIGAN has learned to build the trust of traditional leaders. SALIGAN representatives pay a personal visit to the traditional leader before SALIGAN begins working in their community. Sometimes SALIGAN representatives make this first visit with representatives from an organization that already has a relationship with the community. Gradually, the traditional leaders learn that SALIGAN does not intend to encroach on their land or customs.

ix. Contact Information: SALIGAN

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Timap for Justice,²² Sierra Leone

A. Introduction

Timap for Justice is a paralegal organization in Sierra Leone that navigates Sierra Leone's dualist legal structures of customary law and formal law. Timap began on a small scale and initially focused its efforts on the countryside, where social infrastructure and access to justice is poor. Timap now maintains thirteen offices clustered in several rural and urban districts; they employ twenty-five paralegals; two head paralegals and two lawyers/directors.

Timap uses a range of paralegal mechanisms, including education, mediation, advocacy, navigating structures of authority, collective action and community organizing. Their approach to the dualist legal system in Sierra Leone is pragmatic and strategic. Timap uses the formal and the informal justice systems when possible and when necessary, "drawing on and engaging both customary and formal institutions depending on the needs of a given case."²³

Key components of Timap's approach include:

- Combining different methods;
- Using litigation and the "color of law" in mediation;
- Maintaining a respectful and professional attitude towards clients;
- Empowering community members; and
- Strategically using formal and traditional courts.

B. Best Practices

i. Outreach

Timap conducts community education sessions and community dialogues to raise awareness and to create personal contacts between community members and leaders. These community education sessions are most effective when connected to a larger action plan. For example, Timap held community meetings and workshops to educate people about legal commitments that the Sierra Leone government made to primary education. When there were 'policy breaches', or

²² Information for this section comes from the Timap website <http://www.timapforjustice.org>; articles by Co-Director Vivek Maru ([Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide](#), Yale Journal of International Law, Volume 31: 427, 2006; Vivek Maru, [Solving Problems: Paralegal Program Guide](#) (unpublished, on file with The Carter Center); and from a phone interview with Lead Paralegal Daniel Sesay on 11/17/2008.

²³ Maru, [Between Law And Society](#), 427.

where the government was not following its own laws, community members knew what the law was and also knew to come to Timap for assistance.

Paralegals also conduct community sensitizations through the mobile clinic program. The sensitizations are based on issues important to the community. For example, one community had many cases of domestic violence, so Timap held a meeting and brought advocates to talk about domestic violence and the law. Sometimes these meetings will take up the entire paralegal visit, and Timap will organize dialogue sessions with the local authorities and the entire community.

ii. Training

Timap paralegals are initially trained on the basic law, governmental structure, alternative dispute resolution skills, advocacy, and negotiation. Timap's entire paralegal team meets in Freetown every six months; regional teams meet every three months.

These group meetings have several functions:

- To present, review and discuss individual cases as a group, identifying best practices and good approaches;
- To receive training on new laws, as well as specialized and refresher trainings;
- To identify and discuss trends in the types of cases paralegals receive;
- To build trust and team building; and
- To update paralegals on changes to Timap's case management system.

iii. Case Management

Detailed Record Keeping

Timap holds its paralegals to a high standard of professionalism and emphasizes confidentiality. The organization has a detailed record keeping and case tracking system to ensure confidential, effective and persistent monitoring. Paralegals use a standardized system to maintain case files, track and follow up cases, and record their own efforts.

Getting Parties to Respect Agreements

Timap sometimes encounters difficulty in enforcing mediation agreements. To avoid this problem, Timap paralegals follow steps during the mediation process to ensure the parties will abide by the resolution. Before mediation, Timap asks parties to sign a statement that will bind them legally to any final agreement they reach. During the mediation, Timap works with the

parties to design a follow up plan and incorporate the plan into the final agreement. Timap also requires parties to sign a waiver acknowledging that Timap may consider legal action if the party violates the agreement.

Teamwork, Pairing & Paralegal Rotation

Teamwork is a “guiding principle” of TIMAP’s work. Paralegals work together, especially on challenging cases.

Timap rotates paralegals through different regional offices. The rotation system has several purposes:

- Paralegals gain the opportunity to deal with different legal issues, in different legal systems (e.g., some offices work more in formal courts or informal courts);
- If paralegals stay too long in a single community, they may form close ties with community members that interfere with their work and present confidentiality issues;
- Paralegals are exposed to a variety of different types of cases and conflicts. Sometimes paralegals do not fluently speak the local dialect, but they are paired with a local paralegal fluent in the local language.

iv. Supervision

Timap’s supervisory structure has several layers. There are two lead paralegals and two co-directors of the program, who are also lawyers.

Lead Paralegals

The lead paralegals spend at least two days a month in site visits with each paralegal in his or her office. During these visits, the lead paralegal reviews the daily ledger to monitor time-management and reviews individual case files to evaluate the paralegals’ progress in a case.

These site visits are unannounced, which allows the lead paralegal to sit in on client meetings and mediations. The site visits facilitate the paralegals’ relationships with Timap’s lawyers and local leaders and help the paralegals coordinate with each other. The lead paralegal gives oral feedback during site visits; if the lead paralegal recognizes a common problem in the paralegals’ work, he provides written feedback and shares that document with other paralegal offices.

Lead Timap paralegal Daniel Sesay believes his site visits to each local office have “greatly improved” the quality of the paralegals’ work. He is able to correct problems, partly because his site visits are unannounced and so the paralegals are “always on their toes” because they know that he could turn up at any moment.

Lead paralegals also provide advice to the paralegals in important or complex cases. They also coordinate the transfer of information from government ministries and agents who are located in Freetown or the district capitals, rather than requiring the paralegals to travel to receive necessary news.

Co-Directors

The two co-directors, who are attorneys, also visit each office every several months. They conduct a similar sort of supervision as the lead paralegals, reviewing the case ledger and case files, meeting with paralegals and clients, providing feedback and helping paralegals think through their approach to challenging cases.

v. Legal Referrals and Impact Litigation

Timap is selective about litigating cases and is more willing to pursue litigation where litigation may have broader impact. For example, in 2005 Timap sued a mining company for causing severe damage to a community's land and health.²⁴

Timap also has an internal referral system. Paralegals sometimes assist in another office's cases. For example, if one paralegal's client has a court hearing in a town where a different paralegal is located, the second paralegal can go to court to monitor the case and then report back to the first. Where another office is more equipped to handle the case, Timap will transfer the case in its entirety.

vi. Gender-Based Violence

When a Timap paralegal receives a complaint of rape, he first assesses whether she needs protection or medical care. If she needs medical attention, the paralegal may refer her to a clinic, and if she needs protection, he may notify the police. Once safety and health concerns are addressed, the paralegal explains the client's legal rights and options. If the survivor chooses to formally report the crime, Timap may accompany her to the police to make the report. In these cases, Timap paralegals do more than provide referrals; the paralegal accompanies the client through all stages of the prosecution process from reporting the case to the police to testifying in court.

Timap has a strict rule not to mediate domestic violence cases. Timap paralegals always refer cases of domestic violence to private attorneys or to the two attorney co-directors; and then paralegals continue to support the survivor and remain involved in the case.

vii. Advocate and Mediator Dilemma

²⁴ Like Liberia, Sierra Leone allows private prosecution for criminal cases.

Timap describes its mediation process as “assisted negotiation,” and informed consent is central to this process. The paralegal includes the client in every step of the process, explaining every available option; the goal is to empower the client to make her own decisions about justice.

A Timap paralegal is always advocating for his client, whether the paralegal is helping the client to navigate the criminal justice system or the paralegal is mediating a dispute between the client and another party.

Six Step Mediation Process

Paralegals often blend advocacy elements with a six-step mediation process. They do not maintain strict neutrality in mediation. When it is in the best interest of the vulnerable party, Timap paralegals will reference a relevant law.

The 6-step mediation process is:

- 1) Introduction and ground rules;
- 2) Each side tells its story;
- 3) Mediator’s summary and provision of legal facts;
- 4) Possible solutions;
- 5) Discussing solutions;
- 6) Reaching agreement and writing the terms of the agreement.

viii. Mobile Clinics

Because the paralegal offices are unable to respond to the needs of many rural villages, Timap established a mobile clinic to bring the paralegals to the people. Timap divided the chiefdoms into four clusters and visits a “clinic center” located in each cluster. The mobile clinics visit each cluster once a month, following a weekly Friday rotation (the first community on the first Friday of the month, the second community on the second Friday of the month, etc.).

Community Contact Person

Each Timap mobile clinic site has a community-chosen “contact person” who serves as a link between the community and the paralegals. The contact person organizes the complaints for the mobile clinic visits, reminds people when the paralegals will be in the village, and encourages people to take their problems to the clinic. In an extreme emergency, the contact person calls the paralegals and asks them to come to the village. Contact people are volunteers, but the paralegals sometimes use their own money to make small gestures of thanks to the volunteers.

If Timap could secure funds to pay the contact people, it would assist in recruitment and retention.

Although Timap does not currently train contact people, some training would be useful, especially trainings that stress that contact volunteers should not charge community members for their assistance.

Mobile Clinic Cases and Activities

The mobile clinic receives clients in a central open structure or hut that already exists in most villages and is used for community meetings. If a community structure or center is not available, the mobile clinic may receive clients in a school compound, on the veranda of a chief's house, or in another open, public space close to the chief's house.

Some people who visit the mobile clinic get results that same day; others may have to wait until the return visit or may be asked to come into the paralegal office. Some cases may take up the entire day.

Timap's mobile clinic handles the same range of cases as the regional offices. Some visitors to the mobile clinics get results the same day; others may have to wait until the clinic's return visit, or may need to travel to the paralegal office. Some complex cases may last the entire day of the mobile clinic visit, which causes difficulties when many people have cases. People in the community also attend the mobile clinics for general legal advice.

Because mobile clinics are only in a community for a short time each month, there is a danger that the quality of legal services will deteriorate. Timap ensures that it handles mobile clinic cases with the same level of care and attention that it does in a regional office, even if it is more difficult to conduct follow-up or if the cases take longer to resolve.

Community Sensitizations

Timap conducts community sensitizations, which involve dialogue sessions with local authorities and the community, as part of the mobile clinic, based on issues that are important to the community. Sometimes community sensitization meetings take up the entire paralegal mobile clinic visit.

ix. Traditional Authorities

Community Oversight Boards

Timap initially focused on improving access to justice in rural communities. Creating Community Oversight Boards (COBs) was an important step in building a strong relationship with traditional authorities in those rural communities.

The COBs consist of local leaders appointed by community members and paramount chiefs. Every COB includes at least one woman and youth. The COBs are designed to maintain good community relations, to improve Timap’s flexibility and responsiveness to community needs, and to build support and trust from community stakeholders.

The COBs were instrumental in establishing the mobile clinics because they could introduce Timap to other chiefs and explain the benefits of having Timap in the village. COBs accompanied the mobile clinics on their first visits to communities and helped with logistical matters, like securing accommodation and office space for the paralegals during their visits. The COBs meet every other month to discuss problems with the paralegals and issues that need to be brought to the paralegals’ attention.

x. Sustainability and Government Recognition

Initially Timap was funded by, the Open Society Justice Initiative, an international philanthropic foundation. In 2006, Timap received a three-year grant from the World Bank of USD \$879,000, enabling Timap to establish several new offices and serve new chiefdoms in Sierra Leone. The grant comes from the Japan Social Development Fund, operated by the World Bank, which supports innovative social programs that help alleviate poverty.

xi. Keys to Success

- Timap’s highly sophisticated record-keeping system and detailed supervision allow the organization to constantly re-evaluate and improve its services.
- Constant evaluation makes Timap flexible and responsive to justice issues as they arise.
- Timap’s “empowerment” principle not only provides legal services *for* the client, but leaves the client and the community in a better position to pursue justice on their own. Timap “aspires to solve justice problems in collaboration with clients rather than on behalf of them.”²⁵
- Timap addresses justice problems at both the individual and the community level.

xii. Contact Information: Timap for Justice

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²⁵ Maru, Between Law and Society, 458.

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Women’s Aid Collective (WACOL),²⁶ Nigeria

A. Introduction

The Women’s Aid Collective (WACOL) is a network of legal advice providers and female paralegals. WACOL conducts outreach, training and advocacy, and offers legal advice and legal representation through lawyers and paralegals. WACOL focuses on women’s issues, especially land inheritance and widowhood.

WACOL operates out of community centers in rural offices across Nigeria. Each rural office has two to three paralegals working full time and an additional two to three paralegals working part time. WACOL employs some lawyers and has a network of legal aid lawyers to whom they refer cases. They train approximately fifty paralegals in various regions every year.

B. Best Practices

i. Outreach

Paralegals have formed “watch dog” groups in their communities to serve as human rights monitors and informants. Community members approach the paralegals with information about community problems, and the paralegals investigate.

WACOL conducts advocacy campaigns on the local and the national level. Nationally, WACOL has partnered with other women’s groups to lobby the government to change the marriage laws. The change in legislation would allow women who are not formally married to bring disinheritance cases in formal courts.

Locally, WACOL conducts outreach initiatives designed to educate women about their rights. WACOL uses women’s meetings as an opportunity to help women write wills, register marriages, and certify documents like land titles. Their meetings are popular, and women travel from surrounding villages to receive useful and concrete services.

WACOL has found that the Church is an essential partner, especially as an agent of influence over men in the community. WACOL often involves church leaders in domestic violence cases, because men tend to listen to their priest.

²⁶ Information for this section comes from the Huairou Commission website <http://huairou.org> and from a phone interview with Gozie Edumezue, former WACOL lawyer, currently with the Heinrich Boll Foundation Nigeria on 9/2008.

ii. Training and Paralegal Qualifications

All paralegals are trained at least once a year. Trainings occur regionally so that paralegals do not have to travel far. Trainings are designed to respond to practices and challenges on the ground. For example, paralegals began to notice that minors are often reluctant to share information in front of a parent, especially in cases of sexual assault. But parents always accompany their children to meetings with WACOL. In later trainings, paralegals were taught how to deal with this sensitive situation. They could, for example, ask the mothers to leave so that they could speak with children alone.

Paralegals are selected from the community and are required to have ties to the community they serve. WACOL works closely with churches and with village priests to identify community leaders who would be good paralegals. WACOL believes it is essential to have female paralegals from the community, especially when dealing with gender-based disputes, and almost all of their paralegals are women.

iii. Case Management

Paralegals are required to fill “log books.” The log books include client contact details, a description of the dispute, the options that the paralegal presented to the client, and the options that the client chose.

iv. Land Disputes

WACOL often handles property and land disputes, especially those that disproportionately affect women. Cases include widow disinheritance, wills and trusts, and fraudulent titles.

WACOL offers to mediate disinheritance cases. Paralegals begin these mediations by explaining the law: a widow who was legally married under statutory law has the right to inherit marital property when her husband dies. If the land has already been sold, however, WACOL will refer the case to the formal court system. The Land Registration law provides relief in these cases, and women often successfully reclaim their land in court.

If a widow was married under traditional law, paralegals will refer the case to customary court. Unfortunately, this option is less likely to result in justice for the client. Officials in customary court are mostly men and often accept bribes from the new owners. The rate of success for women with disinheritance cases in customary courts is around fifty percent.

v. Traditional Authorities

Some traditional leaders initially opposed the WACOL’s program, in part because they believed that empowering women would teach them to be disobedient. WACOL responded by including

leaders in their process. They explained the role of paralegals and asked leaders to nominate women to participate in the training. WACOL also held a meeting for the traditional leaders in the capital to further develop good relationships. As a result of these efforts, traditional leaders now often request the paralegals to come to their courts to provide legal assistance.

vi. Sustainability and Government Recognition

WACOL only pays their full-time paralegals, but most paralegals are part-time. WACOL does not provide their part-time paralegals with offices and only reimburses them for small expenses. WACOL reports that the lack of funds to pay paralegals threatens the sustainability of their paralegal scheme.

vii. Contact Information: Women’s Aid Collective

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|------------------------|---|
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Part II: Program Assessment and Recommendations for Justice and Peace Commission

Supervision

A. Introduction and Key Recommendations

Supervision of monitors ensures that a community-based legal advice program delivers effective and high quality services to the community. Supervision helps monitors understand how to improve their approach to disputes and helps the organization as a whole assess the effectiveness of their strategies.

JPC Monitors in the Harper Office benefit from supervision and review by the JPC coordinator and Carter Center staff. JPC will institute more supervision, with two JPC lead monitors to supervise and review regional offices. The lead monitors will visit the regional offices monthly to meet with monitors and to review cases. JPC Attorney Gbesioh and Counselor Reeves do not officially supervise monitors, though they do provide guidance on legal issues.

Community-based mediation programs have developed various methods to supervise monitors. Some organizations have head paralegals, lawyers, staff directors, or foundation officers oversee and evaluate paralegals' work. The supervisor will visit regional offices, meet with the paralegal individually, and go over all of the case files with the paralegals. In some organizations, supervisors will also meet with key actors in the community or sit in on client meetings, to fully evaluate the paralegals' work. Staff retreats and meetings are used to review cases and evaluate monitors. For many organizations, such as Timap for Justice in Sierra Leone (Timap), good supervision involves frequent communication between Timap paralegals and their supervisors — whether a lawyer or a head paralegal (Timap page 61).

SUPERVISION: KEY RECOMMENDATIONS

Lead monitors and attorney supervisors should:

- Conduct unannounced site visits on a regular basis
- Review every case handled by a paralegal
- Require paralegals to submit monthly reports
 - o Encourage paralegals to seek advice and feedback from lead paralegals on an ongoing basis
- Hold periodic group meetings with all paralegals to review individual cases
 - o Include refresher courses and updates on new laws
- Keep a master case log in each regional office
 - o As resources allow, JPC may consider implementing a computerized case management system
- Ensure that all case files are kept in a professional manner, including organization, grammar and spelling

B. Site Visits and Evaluation by Lead Monitors

Two JPC lead monitors have recently been hired to supervise and review regional offices. The lead monitors will visit regional offices on a monthly basis and stay in contact with monitors throughout the month. This practice will help monitors in regional offices receive feedback and guidance on their work.

i. Supervision by Lead Paralegals

Lead paralegals in other organizations conduct unannounced site visits to regional offices, relay information between offices, and communicate with their paralegals frequently to answer questions and give advice.

For example, Timap for Justice in Sierra Leone has two lead paralegals: Daniel Sesay supervises fifteen paralegals in the northern part of the country, and John Macarthy supervises ten paralegals in the south of the country (Timap page 61). Mr. Sesay spends at least two days a month with each paralegal in his or her office, although some months it may be more. During his visits to the rural offices he supervises the paralegals in their daily work and reviews their case files. Mr. Sesay looks at each paralegal's ledger to review their daily activities. This allows him to determine if paralegals are making the best use of their time and whether they need more training on certain issues. He reviews their case files to determine whether they are making progress in their cases and are on the right track. For the cases identified as important, he will provide advice as to what the paralegals should do, including what advice the client should be given and whether further factual information is necessary.

Mr. Sesay conducts his site visits unannounced. These surprise visits allow him to sit in with paralegals on their daily work, such as client meetings and mediations. If a paralegal has a particularly complex case, he or she can call the lead paralegal and request their presence at the mediation. Mr. Sesay believes his site visits have "greatly improved" the quality of the paralegals' work, partly because he is able to correct problems in the paralegal's work, but mostly because his site visits are unannounced. The paralegals are "always on their toes" knowing that he could turn up at any moment.

Timap also uses the site visits by lead paralegals to relay information from the capital to regional offices about new government policies and legal developments.

Recommendations:

- 1. Spend time in each office.** JPC should consider sending lead monitors to spend at least two days at each office.
- 2. Conduct surprise visits.** Like Timap, JPC might schedule these visits as "surprise visits" so that the monitors do not know when the lead monitor might be coming. As a result, monitors might be more inclined to keep their files in order, follow up on cases, etc.

3. **Prepare brief updates on law or policy.** JPC lead monitors could prepare brief updates about developments in law or government policy to give to monitors in regional offices who may not have quick access to this kind of information.

ii. Supervision by Lawyers, Directors and Staff Teams

Some paralegal organizations have staff members, such as lawyers or directors, who visit and evaluate regional offices. The JPC could consider this practice to add another layer of review and to complement the role of the lead monitors.

Attorneys with the Legal Resources Foundation in Zimbabwe conduct site visits to the regional offices, instead of lead paralegals (LRF page 40). LRF also incorporates lawyer supervision as part of a stage of the training program.

Regional offices of the Paralegal Advisory Service Institute (PASI) in Malawi are evaluated by a team consisting of a monitor, a director and a deputy (PASI page 53). The team tours the paralegal sites to meet with paralegals and key stakeholders and contacts on the ground, including prison officials, clients and local magistrates, in order to evaluate the paralegals' work in the community context.

Several paralegal organizations have outside organizations and donors conduct site visits and evaluate regional offices. The Civil Resources Development and Documentation Centre in Nigeria has program officers from the Heinrich Boll Foundation conduct unannounced monthly visits to regional offices (CIRDDOC page 25). In 2006, Black Sash, a South African legal services organization, invited an independent auditing organization to conduct periodic audits and evaluations of the paralegal program, including site visits to all the regional offices. The auditor reviewed all case files and interviewed paralegals in the regional offices. (Black Sash page 22).

Supervision can also be a means of regulating any illegal, unprofessional, or substandard practices that paralegals may engage in, such as charging fees to clients, gender bias, breaches of confidentiality, or favoritism in the community. The less supervision that a paralegal organization has over paralegals, staff, and volunteers, the more likely it is that abuses will occur. There are several ways to prevent this. For instance, the Legal Advice Center (LAC) in Namibia has pursued criminal charges against paralegals for charging clients, in violation of the paralegal code of conduct (LAC page 35). Black Sash in South Africa dismissed several paralegals from their duties, one for being under the influence of alcohol at work, and the other for poor work performance (Black Sash page 22). Having paralegals sign a legally binding "code of conduct" may ensure that such violations do not occur.

Recommendations:

1. **Supervise case management.** Supervisors should make sure that monitors keep all cases in a professional manner, treat clients professionally, and ensure that each office has a professional case management system.

2. **Answer legal questions.** Supervisors, attorneys and monitors should communicate frequently to answer any legal questions that might arise during a case.
3. **Institute a written code of conduct.** JPC might consider requiring monitors and staff to sign a code of conduct that clearly defines permissible and impermissible conduct to avoid some of the pitfalls other organizations have faced.
4. **Consider independent audit and evaluation.** Asking an outside, independent organization to conduct an audit and evaluation of the JPC's monitors and services may increase the JPC's legitimacy and attractiveness to international donors and to other institutions.

C. Attorney Supervision

Attorney supervision, when possible, can provide formal legal expertise to a community-based monitor program. Attorneys can supervise the work of paralegals or monitors to ensure that legal standards for client relations, case management, and legal practice are being followed.

The JPC has partnered with two organizations for attorney oversight. Counselor Reeves at the Carter Center in Monrovia answers legal questions from monitors over e-mail and helps design and conduct JPC legal trainings. The American Bar Association has provided an attorney, John Gbesioh, on site in Harper as part of their fellowship program. Monitors refer disputes involving criminal matters to Attorney Gbesioh and sometimes consult on legal issues. (Refer to the "Legal Referrals and Impact Litigation" section of this handbook for a detailed description).

Neither of these attorneys, however, serve in a direct supervisory role for paralegals. Counselor Reeves is a fantastic trainer and excellent teacher. But because he is located in Monrovia, he is not available on a regular basis to review files or help monitors think through their cases individually. Attorney Gbesioh, in contrast, is on site. It appears that he does not have a supervisory role or perhaps has not been given the authority to supervise cases. He consults with JPC monitors and litigates the cases that they refer, but he does not review files, visit clients, or meet with the monitors to go through their case roster.

Other paralegal organizations have placed attorneys in more of a supervisory role. CIRDDOC partners with attorneys at private firms who supervise paralegals on a pro bono basis (CIRDDOC page 25). While these lawyers may not represent clients in court, they are available to provide legal advice, training, and supervision to paralegals. The National Alliance for the Development of Community Advice Offices (NADCAO) in South Africa partners with private attorneys and students at law school clinics to provide paralegals with formal legal assistance when needed (NADCAO page 49).

Recommendation: Involve JPC attorneys in more supervision. The role of an attorney supervisor is more than to provide information on the law or answer legal questions; they can help monitors develop critical thinking skills and learn how to approach the law. JPC

has limited resources for attorney supervision, but they could use the attorneys they have more effectively.

The Carter Center and JPC, for example, might consider creating more opportunities for Counselor Reeves to meet individually with monitors to go over their cases. In addition to providing information about the law, Counselor Reeves could help monitors to develop critical thinking skills and devise creative solutions to the legal issues presented in their most challenging cases.

JPC could also work with the American Bar Association to devise a more supervisory role for their attorneys placed at JPC. Their legal fellows are themselves new to the practice of law, and they also need more supervision as they are asked to supervise monitors.

D. Reviewing Cases

Continuously reviewing cases minimizes mistakes and bad practices and helps the monitor and the organization think critically about their approach and procedure. Reviewing all aspects of a case, including file management, intake procedure, client interviews, mediation or referral, and follow-up, ensures quality and professionalism.

The JPC Coordinator and TCC staff members currently review cases with monitors on a fairly ad hoc basis. The new lead monitors will also be charged with supervising and reviewing monitors' cases in regional offices.

Other organizations provide good models for JPC's approach to more frequent case review. Black Sash, for example, adds several layers of supervision and review (Black Sash page 22). Regional managers review the case files of paralegals in the national casework database and then hold individual meetings with paralegals. Similarly, Deme So, a paralegal organization in Mali, reviews paralegals at the local level and the national level (Deme So page 28).

Timap lead paralegal Daniel Sesay gives oral and written feedback to paralegals on individual cases, which improves the paralegals' work (Timap page 61). If the lead paralegal thinks that sharing written feedback will help other paralegals and will not compromise the confidentiality agreement, it is circulated to all paralegals and then discussed at Timap meetings.

Recommendations:

- 1. Review every case continuously and multiple times.** The JPC could add several layers of review, and treat every case as an opportunity to learn and improve.
- 2. Review the organization and presentation of case files.** A valuable component of reviewing cases with monitors is to review the state of the case files. Supervisors should make sure that case files are kept in an organized fashion and that monitors make copies of documents when possible. Lead monitors and attorney supervisors could use the Case File Checklist provided in the Annex to review each case.

Although JPC is a new program and has maintained substantially the same staff, JPC should also be prepared for staff turnover. A colleague taking over the case should be able to tell exactly what progress has been made and how to continue to follow up. (Refer to the “Case Management, File Management and Case Forms” section of this handbook).

- 3. Encourage feedback and communication between monitors.** Timap provides its paralegals with a lot of cell phone minutes and encourages paralegals to call each other frequently to discuss cases (Timap page 61). This is an effective way to dramatically increase communication, feedback, supervision, and improve cases between monitors.

E. Submitting Reports

Submitting reports is more than simple case management and filing. Monthly or periodic reports provide a broad list and description of all the activities that an office or a monitor has undertaken, including cases, outreach, formal and informal meetings with stakeholders, sensitizations, and workshops. Reports identify emerging issues in the community and assess the JPC’s position in the community as a justice provider.

JPC monitors submit case and tracking forms to the Harper head office for review. The tracking form helps monitors conduct follow-up and is part of JPC’s effort to evaluate work more often. Monitors also submit narrative monthly reports, describing their cases. These reports vary in detail and quality.

Most paralegal organizations employ a similar reporting mechanism. Paralegals in the field submit reports to their superiors in the central office and stay in communication with those head officers. The Legal Assistance Center (LAC) in Namibia requires monthly reports from their paralegals detailing the number of cases and clients they had in the month as well as the results of those cases (LAC page 36). The Women’s Aid Collective (WACOL) in Nigeria requires paralegals to submit monthly reports in addition to monthly visits by supervisors to regional offices (WACOL page 69).²⁷

Recommendation: Require more formal and comprehensive reporting. JPC may consider requiring monitors to submit more detailed monthly reports, including their total caseload and other activities they have undertaken, such as sensitization workshops. JPC may consider creating a more formal report form to provide guidance to monitors about what to include in their reports. In addition to reporting on case load, the new form could

²⁷ Note that while some organizations make the salaries of paralegals dependent on submitting reports, at least one paralegal organization reported this practice led to fraudulent reporting. The League of Kenya Women Voters, <http://www.leaguekenya.org>, an organization not profiled in this report, paid their paralegals automatically upon receipt of the required monthly report, which led some paralegals to submit fraudulent reports simply to get paid. Information from a phone interview with Enricah A. Dulo, researcher with The League of Kenya Women Voters, 9/15/2008.

include space for monitors to list sensitizations and outreach, community contacts they have made, and the status of their relationship with various community leaders.

F. Retreats to Review Cases and Provide Refresher Legal Training

The JPC holds monthly retreats designed to update the paralegals on new laws, provide refresher trainings, and review case studies. Before the retreat, monitors are asked what legal issues have arisen in their practice, and Counselor Reeves and the Carter Center have designed trainings to address those issues.

These monthly retreats and workshops have been crucial as the Carter Center and JPC have developed this new program. The retreats have provided needed training and time for reflection about challenges and community issues as they have arisen. At the same time, the frequent travel may interrupt monitors' casework. Some of these workshops have been fairly long, and monitors are sometimes away for two weeks out of the month.

Most paralegal organizations also hold periodic meetings for staff, paralegals and lawyers. These meetings have several purposes: team-building, discussion of specific cases, discussion of general trends, refresher trainings, and trainings on updates to the law. SALIGAN, a legal services organization in the Philippines holds monthly clinics for paralegals and lawyers to discuss their cases and refresher courses to update paralegals on changes in the law (SALIGAN page 57).

Balay Alternative Legal Advocates for Development in Mindanaw (BALAOD), a legal services organization in the Philippines, requires its paralegals to attend monthly clinics to receive advice and feedback from lawyers (BALAOD page 15). At these clinics, the paralegals review every case they are working on until it is resolved or needs a different legal action.

Recommendations:

- 1. Expand on-the-job training and supervision and shorten monthly retreats.** Now that the lead monitors will be visiting regional offices and continuously supervising the work of monitors, JPC might consider holding retreats less frequently or holding retreats regionally.
- 2. Allot more time for case review at retreats.** JPC might take advantage of the retreats with Counselor Reeves to review cases individually and as a group. It is important that the retreats provide an opportunity for reflection, discussion and deliberation, and that monitors have an opportunity to discuss and evaluate each other's work.

G. Keeping a Master Case Log and Building a Case Database

The JPC tracks cases and compiles general data on all of its cases. Jeff Austin with the Carter Center developed a slide presentation that analyzes JPC's case activities, including the total number of cases that JPC has handled, the types of cases, the percentage of cases that have been resolved, and the method used by the monitors in handling those cases. This data can be very useful to the JPC as it analyzes its work from a broad perspective, allowing the organization to take a step back and identify trends and best practices.

Other organizations have developed similar tools. PASI uses a standardized case management system to compile data on cases that it handles at prisons throughout the country (PASI page 53). PASI reports that this information is both useful to the organization and makes the organization useful to government agencies and other NGOs who regard PASI as a repository of knowledge about the criminal justice system. This case management system is accessible to all paralegals to track data and trends regarding a particular sector.

Recommendations:

- 1. Regional offices should keep comprehensive data.** JPC's method at the Harper office of compiling and systematizing all data should be duplicated at each regional office by asking each office to keep a master log containing this kind of information. When the lead monitor visits the regional office, he or she can review the master case log with the monitors. The JPC currently uses a standardized, uniform case intake form, and to compile information more easily, each master case log could also be standardized.
- 2. Use a centralized database as funds permit.** As funding and resources permit, the JPC could continue to improve its centralized database to organize cases, identify trends in those cases, and better evaluate its work. JPC might consider looking at the National Refugee Council's model as an example.
- 3. Join other organizations in the effort to develop national case-tracking and statistical tools.** Some groups who focus on GBV in Liberia have been working with the Ministry of Gender to develop a national database to track cases. The Norwegian Refugee Council has also developed a similar tool to track the types of legal disputes that arise in communities nation-wide. JPC might consider joining in these efforts to coordinate information on a national level.
- 4. Use compiled data to look at the big picture during retreats.** At the periodic review sessions, all JPC staff could analyze and discuss this data to continually adjust and improve their approach to justice. A systematic approach to collecting and analyzing case data will be especially useful as JPC expands its area of operations and increases its caseload. The database could be used to identify trends in JPC's work, such as how clients came to know about the JPC, what methods were used in resolving the cases, the role of traditional authorities and government officials, and other indicators.

Monitor Qualifications and Training

A. Introduction and Key Recommendations

Community legal advice programs can assist communities only to the extent they employ qualified individuals who receive thorough training.

This section begins by exploring JPC's qualification requirements and hiring process. It then assesses JPC's initial training and recommends that JPC develop a comprehensive training program for new hires. The next part focuses on ongoing and advanced training; and the final part discusses training materials for monitors.

MONITOR QUALIFICATIONS & TRAINING: KEY RECOMMENDATIONS

- Create a standardized application process
- Strive to achieve gender balance of monitors
- Develop a separate training course for new monitors followed by an opportunity to shadow an experienced colleague
- Increase GBV training for new and current monitors
- Increase training on client intake and follow-up
- Conduct in-depth advanced trainings at retreats
- Consider altering the current retreat schedule
- Develop training manuals for each monitor that can be updated throughout employment at JPC

B. Qualifications for New Monitors

i. Current JPC Monitor Qualifications

Over time, JPC has developed some informal qualifications for monitors:

- A high school diploma;
- Residence in the county where the monitor will work;
- Fluency in the local language;
- A cordial working relationship with the local government authorities and local priest;
- Lack of a human rights violation on their record; and
- Knowledge of the local community and the law.²⁸

ii. Current JPC Hiring Process

The JPC program coordinator is primarily responsible for hiring monitors, with input from the Carter Center. JPC advertises available positions on community bulletin boards and announcements during mass. They ask the Parish Committee and the priest to nominate qualified members of the community.

During interviews, JPC asks applicants about their qualifications and experience. JPC may pose a hypothetical case study and ask the applicant how he or she would address the particular situation. Sometimes JPC requires an applicant to complete a written examination with questions about Liberia's laws and Constitution. Before hiring a candidate, JPC inquires about his or her behavior and reputation in the community.

JPC strives to achieve gender balance in their hiring, but in some regions they have only hired male monitors. The lack of gender equity may affect their services. In GBV cases in particular, clients may not be comfortable or willing to speak openly with a male monitor.²⁹

iii. Paralegal Qualifications for Other Organizations

Most paralegal organizations have formal qualification standards. Many organizations value a close relationship between the paralegal and the community. In Mali, Deme So's paralegals are chosen by their communities because they have a certain level of education, a good character,

²⁸ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville. Note that additional requirements may be imposed if the Liberian government decides to recognize paralegal programs and standardize qualifications.

²⁹ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

and are willing to stay in the village. Deme So trains an equal number of men and women as paralegals (Deme So page 28).

In the Philippines, SALIGAN's paralegals must be members of the community in which they work (SALIGAN page 56). The Philippine's Legal Rights and Natural Resources Center – Kasama sa Kalikasan (LRC-KSK) paralegals must know the local community and have strong people, writing, and legal research skills (LRC-KSK page 33).

Other organizations focus on more formal qualifications. In South Africa, for example, Black Sash chooses its paralegals based on their formal qualifications and personal attributes, including: an accredited paralegal diploma, experience in case and project management, knowledge of laws and policies regarding socio-economic rights, report writing, problem solving and workshop planning skills, personal discipline and honesty, and ability to work in a team (Black Sash page 21). In Malawi, the Paralegal Advisory Service Institute (PASI) paralegals must have a background in social work or community organizing (PASI page 52).

Legal Resource Foundation (LRF) Zimbabwe also has strict formal criteria for their paralegals. Paralegals must: be at least 25 years old (to instill confidence in the community); have a certain level of success in high school or a high ability in reading and writing English; previous experience in community education or volunteer service; strong ties to the district where the position is located; a willingness to reside full-time in the district and provide their own housing; speak relevant languages for the district; demonstrate respect and empathy for the disadvantaged; and have no criminal record (LRF page 39). The most important factors are maturity, experience with community work, and commitment to helping others learn about and exercise their rights.

iv. Hiring Practices of Other Organizations

Some paralegal organizations allow the community to choose the paralegals. The paralegals employed by Kenya's Legal Advice Center – Kituo Cha Sharia (KCS) are chosen by village chiefs (KCS page 43). Paralegals who work for Deme So and LRC Philippines are chosen by their communities (Deme So page 28 and LRC-KSK page 43.) Women's Aid Collective (WACOL), Nigeria, paralegals are recommended by the church leadership (WACOL page 68).

Other organizations employ a model more like JPC and hire paralegals directly. At Black Sash, the regional office manager recruits new paralegals in consultation with the human resources unit at the national office (Black Sash page 21).

Recommendations:

- 1. Create a standard application process with formal qualification and hiring guidelines.** A standard process and written guidelines would promote professionalism and transparency. A uniform process would allow JPC to evaluate each candidate by exactly the same standards.

2. **Strive to achieve and maintain a gender balance among monitors.**
3. **Seek recommendations from community leaders for qualified individuals.** In addition to the priest and the Parish Committees, JPC may consider asking chiefs, women's leaders, and youth leaders to nominate qualified individuals to submit applications.

C. Initial Training

The initial training of newly hired JPC CLA monitors is crucial to ensure they are effective and productive members of the JPC team.

Because the CLA program is relatively new, JPC and the Carter Center have not yet developed a formal training program for new JPC monitors. The newest monitors participated in a two-week workshop that was part of the ongoing training for all JPC monitors. The first week covered basic training on human rights, civil and criminal cases, mediation, and GBV. The second week consisted of an American Bar Association mediation course.³⁰

Most organizations have more in-depth, comprehensive training programs for new paralegals. Some organizations train their new paralegals in a long single training session. Deme So paralegals undergo a two week training session covering the nine themes set forth in the national training curriculum (Deme So page 28). New Bangladesh Rural Advancement Committee (BRAC) paralegals attend a 21-day training session (BRAC page 18).

Other organizations extend the initial training period over multiple sessions. In the Philippines, SALIGAN's paralegals attend a weekly training session for the first six months of their employment (SALIGAN page 56). Balay Alternative Legal Advocates for Development in Mindanaw (BALAOD) paralegals undergo three trainings. First, they attend a general paralegal training. Second, they attend a special paralegal seminar where they are educated about laws specific to the legal issues that exist in the community where they work. Third, they attend a skills training, where they learn about the courts, the government, due process rights, skills such as affidavit writing, gathering evidence, and styles of argumentation. At the conclusion of these three trainings they begin a six-month placement during which they work on a specific case with BALAOD to test and develop their skills (BALAOD page 14).

At LRF in Zimbabwe, training is divided into four stages. The first two stages are conducted by distance education, where paralegals learn on the job, with study guides and lawyer supervision. The last two stages are residential courses, where the paralegals are trained in a program that focuses on providing (1) knowledge of Zimbabwe's government structure, dualist legal system, human rights, family law, gender-based violence, labor laws, and rules of procedure; (2) skills in community education, casework, alternative dispute resolution, and community mobilization; and (3) attitudes necessary for working with disadvantaged communities (LRF page 39).

³⁰ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

Recommendations:

- 1. Develop a more thorough initial training program.** JPC may consider adapting some of the practices of the organizations above. For example, JPC could hold a two or three-week initial training program exclusively for new monitors that covers both JPC procedures (intake, file maintenance, follow up, etc.) and basic substantive law on the most common legal issues. After this initial training, each new monitor could be required to shadow an experienced monitor for another two weeks to witness the procedures and law in practice. During the first six months or year, JPC may want to create a weekly session for new monitors to discuss their cases with one another and check in with supervisors. This combination of learning, witnessing, and reflecting would greatly improve the monitors' experience with the program as well as the quality of their services.
- 2. Continue to train paralegals on substantive law.** Basic knowledge of the law applicable to a client's problem is central to resolving any dispute.
- 3. Areas where JPC should ensure thorough training of all new monitors include:**
 - Client Intake;
 - Identifying Legal Problems;
 - Presenting Client Options;
 - ADR Techniques;
 - Proper Completion of Client Case File;
 - Follow-up;
 - Explaining the Court Process;
 - Working with Authorities;
 - Prison and Court Monitoring;
 - Client Relations;
 - Working with GBV Survivors;
 - Client referral process.

4. **Increase GBV-related training for new and current monitors.** Monitors should be trained on working with survivors of GBV. JPC should continue to partner with the Center for Victims of Trauma and work with other organizations that specialize in working with GBV survivors. The continued training should provide the monitors with a thorough understanding of the psychosocial aspects of GBV, including the cycle of violence. GBV training should also include related family issues, such as child maintenance and child abuse.
5. **Train monitors on the court process and introduce them to the different authorities in the district where they will work.** Training should include teaching the monitors how to navigate and explain the court process and how to present problems and advocate in front of traditional and formal authorities.

D. Ongoing and Advanced Training

Ongoing trainings can update monitors on the law, introduce new ADR techniques, implement new procedures, refresh knowledge and skills taught during training, conduct team-building activities, and correct irregularities in a monitor's practice. Many of these activities are conducted as part of supervision and on an informal basis as well.

The Carter Center and JPC have developed an excellent and generous ongoing training program for JPC monitors. JPC paralegals participate in monthly training retreats that are typically three days long. The location rotates between JPC offices. In preparation for the retreat, each monitor is asked, "What are the big issues in your community?" Counselor Reeves then prepares a presentation on the legal aspects of these issues.

The workshops have a practical component. The Carter Center and JPC train on basic procedures, such as intake and advocacy. They integrate real case studies to challenge monitors to learn how to identify and approach legal issues.³¹

The Carter Center often arranges for experts from other organizations to participate in the retreats. For example, the ABA has contributed a full week-long mediation training and certification for JPC monitors. The Center for Victims of Trauma (CVT) has also provided training on psycho-social counseling for GBV survivors.³²

The retreats ensure all monitors have the legal and practical skills necessary to complete their work, but they also bring the entire team together and encourage collaboration. A "social night" builds community amongst the monitors.³³

³¹ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

³² Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

³³ Interview with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

Most community-based paralegal organizations require their paralegals to attend advanced training during their service. At LRF Zimbabwe, there is an annual national conference for all the paralegals, where they are provided with legal updates and skills development. Experts are invited to present on specific topics; recently, a minister and a magistrate led the training on the new domestic violence and labor laws for all paralegals (LRF page 39).

At LRC-KSK Philippines, paralegals attend advanced paralegal and skills-building workshops where they are taught skills that are specifically applicable in their communities (LRC-KSK page 43). Legal Advice Center (LAC) Namibia also conducts advanced trainings for paralegals on issues specific to their regions (LAC page 35).

Like JPC, Timap for Justice in Sierra Leone has a comprehensive ongoing training program to teach paralegals new techniques, law, and procedures. All Timap paralegals gather twice a year in Freetown, and the two regional teams meet quarterly. During these gatherings, each paralegal is asked to present a particularly interesting case. The entire team will discuss the cases together and highlight best practices. Timap also allocates time to highlight recurring problems in case files and answer questions. (Timap page 60).

Recommendations:

- 1. Consider altering the timing of the retreats.** Is once a month too often to require all team members to travel to another county? As JPC expands into the northern part of Liberia, it may want to implement Timap's plan of more frequent regional meetings and biannual all-monitor meetings. The implementation of the lead paralegal positions will ensure paralegals continue to receive guidance and oversight if retreats become less frequent.
- 2. Use the retreats as an opportunity to improve inter-organizational relationships in the community where the retreat is held.** JPC can invite local experts to make presentations or participate in the training. The Carter Center and JPC have invited community stakeholders to workshops with great success. Thunder Tikklo, Harper LNP officer, told the Leitner team that he was thrilled to have been part of a workshop and that the opportunity to learn alongside JPC monitors greatly improved their collaboration.³⁴
- 3. Use the retreats as an opportunity to conduct in-depth trainings on specific topics.** JPC can borrow Timap's model of asking each paralegal to present a case in a specific legal area, then partner the monitors' presentations with a session on the law and specific ADR techniques to apply to the type of dispute. Jeanette Carter of the University of Liberia recommends JPC monitors undergo training on land disputes, including the different types of land disputes that exist in Liberia, the different ways to handle land disputes, and the role of the land commission.³⁵

³⁴ Interview with Thunder Tiklo of the Liberian National Police Women and Children Protection Unit, 10/21/2008, Harper.

³⁵ Interview with Jeanette Carter, University of Liberia, 10/24/2008, Monrovia.

4. **Provide more advanced training on GBV.** The Carter Center and CVT have provided training on GBV law and psycho-social issues, but JPC monitors have expressed that they would like more training, including training on how to work with survivors of GBV.³⁶ JPC could may consider devoting a whole retreat to GBV.
5. **Allow time for personal reflection during GBV training.** Trainings on GBV should allow monitors to reflect on their own values and cultural beliefs. Neither The Carter Center nor JPC should assume that monitors share their approach to gender equality and family violence. The Carter Center and JPC might consider inviting the American Refugee Council to conduct a workshop for JPC monitors about how to personally approach GBV. They have conducted similar workshops for court personnel, police, and health professionals.

E. Training Materials

Training materials are useful to paralegals throughout their careers, especially if they are consistently updated. JPC currently provides monitors with a short manual with procedures but no guidelines on legal issues or approaches to various types of cases. During trainings, they are given paper handouts of PowerPoint presentations.

Other organizations have created very in-depth training manuals. Paralegal Advisory Service Institute (PASI) Malawi's training manual, for example, covers criminal law and criminal procedure, paralegal program procedures, and tips for practice (PASI page 52).

LRF Zimbabwe has a different approach. Instead of a manual, LRF produces a Paralegal Bulletin, a newsletter specifically devoted to updating paralegals on law and strategy (LRF page 39).

Recommendations:

1. **Develop a monitor handbook.** JPC should consider developing a handbook, in binder format, that includes case protocols, guidelines and checklists, and a summary of all the laws monitors use and apply regularly. Using a binder will make it simple to add new updates or remove outdated information. Additions to the handbook could be provided to all monitors at each retreat. Any powerpoint presentations or handouts at retreats could also be added to the book. Monitors should refer to their handbook as necessary to ensure cases receive consistent treatment.
2. **Create addendums.** JPC can partner with specialized community organizations to create addendums that are suitable for fully addressing all topics of concern for JPC clients. For an example, see the GBV pamphlet in Annex 4.

³⁶ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

Case Management

A. Introduction and Key Recommendations

Case management refers to tools monitors use and procedures monitors follow when handling their cases. This section will discuss JPC's current case management strategies, introduce new and improved case forms, and make recommendations for more effective intake and follow-up procedures, teamwork, and mediation.

CASE MANAGEMENT: KEY RECOMMENDATIONS

- Implement confidentiality agreements
- Adopt new and amended case forms:
 - o Intake form
 - o Client agreement
 - o Monitor checklist
 - o Supervisor checklist
 - o Case log
- Provide maximum number of available options to clients
- Conduct follow up on all open JPC cases, even cases that have been referred to an outside party, and carefully document all follow-up
- Conduct longer intake interviews and use more specific questions
- Implement procedures for interviewing GBV survivors
- Request a follow-up intake interview if necessary
- Decrease reliance on client letters
- Increase collaboration among monitors
- Implement a mediation protocol
- Assist clients to utilize and understand the formal and traditional court systems

B. Confidentiality

Confidentiality is an important element in successful legal services delivery. Confidentiality can create trust between a client and a monitor. It can also lend more legitimacy to JPC as an organization.

JPC monitors currently take impressive steps to protect their clients' confidentiality and develop their trust. JPC monitors keep all documents in case files and carefully guard the files to ensure that other parties cannot access confidential information. They stress to clients that their services are confidential. JPC monitor Caroline Doe reports that she recently met with a rape victim at the police station in Harper.³⁷ Doe assured the client that she would keep the client's story confidential, and the client felt free to discuss the details of the sexual assault.

Recommendations:

- 1. Confidentiality agreements with JPC clients.** JPC sign a confidentiality agreement for their clients, promising that JPC will not disclose private information without the client's express permission. A confidentiality agreement might give the client more confidence in JPC as a legitimate and serious organization. If a client trusts JPC not to disclose details about their case, the client might also be more likely to share information. And so long as the client trusts the monitor and shares information freely, the monitor will be able to provide the best representation. This trust and confidentiality are particularly essential in domestic violence situations where the survivor fears for her own safety.

A sample confidentiality agreement is included in this section and in Annex 2. JPC can alter this sample confidentiality agreement as needed and use it with all clients.

- 2. Confidentiality agreements with outside parties.** JPC might also consider asking outside parties to sign a confidentiality agreement before JPC shares information about their clients. A sample confidentiality agreement is included in this section and in Annex 2.

C. File Management and Case Forms (new and amended)

The Leitner Clinic reviewed several JPC files and found that they were often incomplete and difficult to follow. JPC keeps files confidential and organized, but the files themselves often lack important information about a case. For example, some files did not include a complete record of an intake interview, while others did not have any notes about subsequent meetings or follow-up. A supervisor or colleague could not pick up the file and know exactly what the case is about, what progress has been made, and how to continue to follow up.

³⁷ Interview with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

New and amended case forms could help monitors maintain more complete files. The monitors themselves indicated that new forms would be helpful to their practice.³⁸ This section introduces new and amended forms that might be valuable to JPC. A sample of each form is included in this section and in Annex 2.

Recommendations:

1. Intake form. JPC can amend its intake form so that monitors have space to include more information that is relevant to the case. The proposed form includes the following elements:

- The language the client speaks;
- A checklist for the types of issues the case presents;
- An expanded space for a summary of the intake interview so that monitor can record substantially more details;
- A space where the monitor can log which options were presented to the client during the intake interview and how the client responded to those options (Refer to the “Case Management, Providing Options” section of this handbook for a more detailed discussion on providing options to a client during an interview, documenting which options are presented, and documenting the client’s response to the options presented);
- A space where the monitor can log the immediate action taken on the case and the anticipated next steps to follow up after the intake interview;
- A space where the monitor can log whether a client signed a client agreement;
- An instruction for the monitor to record all future actions in the case log and to keep copies of all relevant documents in the case file.

Note that JPC monitors should not use the intake form to document all actions taken in a case. The monitors should use the intake form to document only what happens during the intake interview and then carefully record all follow-up activity in the case log.

The intake form should be the first document in the case file. The monitor should affix the intake form to the right side of the case file. As the monitor develops the case, the monitor should place additional documents on top of the intake form so that the documents are in chronological order. This way, monitors and supervisors can easily follow case progress by looking at a case file.

³⁸ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

Additionally, the JPC can use addendums to the intake form when handling certain types of cases to make intake interviews more productive. For example, domestic violence (DV) cases are complicated and it can be difficult for monitors to explain all available options to a DV survivor. An addendum to the intake form that specifically addresses how a monitor should handle an intake interview in a DV case could help the monitor to follow JPC protocol, ask the right questions, and propose a range of options to survivors. A sample DV addendum is included in Annex 2 and in this section. JPC should also consider altering the checklist for use with other types of cases, such as land disputes and rape.

2. **Confidentiality agreement.** Refer to the “Case Management, Confidentiality” section of this handbook for a detailed description of a confidentiality agreement and a discussion of its usefulness to JPC.
3. **Client agreement.** JPC could improve relationships with new clients by using client agreements. Many legal services organizations use these agreements, sometimes called retainers. A client agreement explains the relationship between JPC and the client and the terms of JPC’s representation. These standard agreements could improve JPC’s professionalism and transparency.

Currently, JPC uses client letters to supplement intake interviews. If a potential client comes to the JPC office with a legal issue, JPC monitors ask that they come back with a letter of engagement explaining what their case is about and how JPC can help. JPC uses client letters in part as written documentation that the client has asked JPC to intervene in the case. There had been a few unfortunate situations where a client denied any relationship with JPC.³⁹

While client letters can be helpful to articulate clients’ interpretation of the facts of their case and their ideal outcome, they also present significant hurdles to legal representation. For example, illiterate clients who cannot write letters might refrain from seeking help from JPC. Similarly, potential clients who return home to write the letter might not have enough money to come back to JPC for a second meeting. In these cases, client letters create barriers to legal representation. (Refer to the “Case Management, Intake Procedures” section of this handbook for additional information about the drawbacks of client letters as supplementation of intake interviews).

A client agreement could provide all the benefits of a client letter without posing the same hurdles to legal representation. For example, the client can sign the client agreement at the first meeting, so the client would not have to incur a cost to return to JPC a second time for intake. Illiterate clients would not be forced to trust someone else to write a letter on their behalf; the monitor could explain the client agreement orally to the client.

³⁹ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

A client agreement could also protect JPC from disagreements with clients. If a client is dissatisfied with the results of a case, JPC could refer to the document outlining the rights and responsibilities of both JPC and the client.

- 3. Monitor checklist.** JPC monitors can use a checklist when working on their cases. A checklist might ensure that JPC monitors follow JPC protocol and do not forget important procedures. The monitors could keep the checklist in the case file and consult it often. The checklist can include a list of procedures that monitors might need to follow when handling cases.

JPC can create one basic checklist for handling all cases, and also create addendums for handling specific types of cases, like land disputes, DV, rape, and formal court procedures. These checklists could resemble the supervisor checklist or DV addendum to case intake form found in this section and in Annex 2.

- 5. Supervisor checklist.** JPC supervisors can also use a checklist when reviewing monitors' work and case files. A supervisor checklist can ensure consistency across supervisor review of files, which will lead to greater consistency in the way monitors handle cases. A sample supervisor checklist is included in this section and in Annex 2.
- 6. Case log.** JPC monitors can use a case log to thoroughly document all actions taken in their cases. A thoroughly maintained case log can help monitors to track their own progress in a case and help supervisors to track monitors' cases.

Many paralegal organizations and legal services organizations use some form of case log in their practice. In Mali, Deme So's paralegals record all client interactions on standardized forms (Deme So page 28). Timap for Justice's (Timap) paralegals in Sierra Leone must use a standardized system to document follow-up and all other actions taken in a case (Timap page 60). Timap believes that paralegals deliver better services to clients when their case files are easy to use, well-maintained, and easy to find (Timap page 60).

In Nigeria, Women's Aid Collective (WACOL) requires paralegals to complete log books with detailed descriptions of their cases (WACOL page 68). In the log books, the paralegals document biographical information about the client, describe the dispute, and record the options presented to the client and the option the client decides to pursue. The log books are more detailed than case files.

JPC monitors should use a case log to keep a very complete record of all actions taken in a case. The monitors should attach the case log to the left side of each case file so that the case log will be easily accessible. The monitors should record every single action in a case, including visits to clients even if the clients were not home, telephone calls to clients even if the clients did not answer the telephone, and consultations with attorneys.

A sample case log is included in this section and in Annex 2.

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Republic of Liberia

CONFIDENTIALITY AGREEMENT FOR CLIENTS

This is a confidentiality agreement between the Justice and Peace Commission Community Legal Advisor Program (“JPC”) and _____ (CLIENT NAME).

I, _____ (REP NAME), on behalf of JPC acknowledge that all JPC employees and representatives will treat information provided by or about the client with confidentiality and respect.

PRINT NAME SIGNATURE DATE
(JPC REPRESENTATIVE)

I, _____ (CLIENT NAME) understand that JPC will not disclose confidential information provided by or about me without my express permission. I understand that I am free to discuss the case with other parties if I wish.

PRINT NAME SIGNATURE DATE
(CLIENT)

CERTIFICATE OF TRANSLATION

I, _____ (TRANSLATOR NAME), hereby pledge that I have translated this confidentiality agreement to _____ (CLIENT NAME) in his/her native language to the best of my ability.

PRINT NAME SIGNATURE DATE
(TRANSLATOR)

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CONFIDENTIALITY AGREEMENT FOR JPC PARTNERS

We, the undersigned, hereby enter into a confidentiality agreement with the Justice and Peace Commission Community Legal Advisor Program (“JPC Program”). As parties to this agreement, we acknowledge that we must treat in strict confidence all oral and written communications to and from JPC Program clients, all JPC Program paper files and computer files pertaining to the JPC Program’s specific clients, and any and all information pertaining to the JPC Program’s specific clients. We further pledge that we will not breach this duty to treat the afore-mentioned information in strict confidence. If we desire to include information from the JPC Program’s cases in any written work or oral presentation, we will remove any and all specific names and identifying items from the information to ensure total anonymity for the JPC Program’s clients.

PRINT NAME
(JPC PARTNER)

SIGNATURE

DATE

PRINT NAME
(JPC PARTNER)

SIGNATURE

DATE

PRINT NAME
(JPC PARTNER)

SIGNATURE

DATE

PRINT NAME
(JPC PARTNER)

SIGNATURE

DATE

Catholic Justice and Peace Commission
Diocese of Cape Palmas
Republic of Liberia

CLIENT AGREEMENT FORM

I, _____, request the Catholic Justice and Peace Commission Community Legal Advisor Program (“JPC”) to provide me with advice and assistance in resolving the following dispute/legal issue:

Rights and Duties of Client

1. I have the right to be involved in all major decisions about the way my case is handled, including deciding whether my case should be settled.
2. I have the right to receive advice and assistance from JPC **free of charge**.
3. I understand that all the information I share with JPC is confidential and will not be discussed with outside parties without my express permission. I understand that different members of JPC may discuss my case together. The people that may discuss my dispute include but are not limited to: JPC monitors, JPC supervisors, attorneys that partner with JPC, and representatives from The Carter Center.
4. I will assist JPC in their investigation by providing them with information and documentation relating to my dispute, and authorize JPC to make inquiries about my dispute in the community.
5. I will cooperate fully with the JPC as they advise and assist me with my dispute. I will provide all information requested and attend all meetings regarding my dispute.
6. I will not discuss my dispute with the opposing party without first talking to JPC.
7. I understand that JPC will advocate on my behalf but that they cannot guarantee a desirable outcome.
8. I understand that I can end this agreement with JPC at any time by notifying JPC that I no longer require their advice or assistance.

Rights and Duties of JPC

1. We have agreed to assist the client with this dispute/legal issue.
2. We will treat the client with respect and keep all communications with the client in complete confidence.
3. We will never charge the client a fee for the services rendered.
4. We will provide the client with advice and assistance on his or her dispute to the extent of our abilities.
5. If we are unable to assist the client, we will refer the dispute to an attorney. When a dispute is referred to an attorney, we will inform the client, and continue to assist the client with the process.
6. We will consult the client before making any major decisions about the case. We understand that the client has the right to determine the outcome of her or his case.
7. We understand that our professional relationship with this client covers the dispute for which this agreement is signed. Should the client present a different dispute, another client agreement form will be signed.

PRINT NAME
(CLIENT)

SIGNATURE

DATE

PRINT NAME
(JPC MONITOR)

SIGNATURE

DATE

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CASE INTAKE FORM

| County Monitor's Name, ID #, and Location | Case Number | Date of Intake | Date Closed | Code |
|---|-------------|----------------|-------------|------|
| | | | | |

CLIENT INFORMATION

Name:

Age:

Address (attach map):

Gender (M/F):

Telephone Number:

Safe to call?

Occupation:

Religious affiliation:

Safe to visit?

Language:

Marital status (Married, Living with Partner, Single, Widowed, Divorced):

How did the case reach JPC?

___ Signed confidentiality agreement

___ Client statement attached

Brief Description of the Issue:

[Empty box for brief description of the issue]

Type of issue presented (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Criminal | <input type="checkbox"/> Civil |
| <input type="checkbox"/> Information request | <input type="checkbox"/> Advocacy request |
| <input type="checkbox"/> Private dispute | <input type="checkbox"/> Prisoner's issues |
| <input type="checkbox"/> Community dispute | <input type="checkbox"/> Family dispute |
| <input type="checkbox"/> Employment dispute | <input type="checkbox"/> Advice on court proceedings |
| <input type="checkbox"/> Land dispute | <input type="checkbox"/> Complaint about traditional authority |
| <input type="checkbox"/> Abuse by formal government authority | <input type="checkbox"/> Domestic violence |
| <input type="checkbox"/> Criminal defendant | <input type="checkbox"/> Rape |

Note: Use appropriate addendum, where applicable.

Log of Intake Interview (use additional paper if necessary):

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DOMESTIC VIOLENCE ADDENDUM TO CASE INTAKE FORM

If a client reports problems in a marriage or dating relationship, you should sensitively ask if she has experienced emotional or physical abuse. Remember that your client may have recently been through a traumatic experience. Treat her with sensitivity and respect so that she will feel more comfortable speaking with you. No person deserves to be abused for any reason. Never suggest that she did anything to deserve to be beaten.

Confidentiality is especially important in GBV cases. Conduct the interview in private and assure the survivor that all of the information that she shares is confidential. Tell her that you will not talk to *anyone*, including her partner or family, without her permission.

Survivors of violence know what is best for them. Provide her with choices, and help her think through what she would like to do. Use this form during the intake interview to guide you through this process and attach it to the case intake form.

_____ Does your client need medical attention?

_____ Is her physical safety in danger? Is the physical safety of her other family members, such as her children, in danger?

_____ Write a detailed description of the abuse your client has experienced and/or is experiencing. Use some of the following questions to understand your client's story:

_____ 1) What caused you to come to the JPC?

_____ 2) In general, how would you describe your relationship?

_____ 3) Do you and your partner work out arguments with great difficulty, some difficulty, no difficulty?

_____ 4) Do arguments ever result in you feeling down or bad about yourself?

_____ 5) Do arguments ever result in hitting, kicking, or pushing?

_____ 6) Do you ever feel frightened by what your partner says or does?

_____ 7) Has your partner ever abused you physically?

_____ 8) Has your partner ever abused you emotionally?

_____ 9) Have you ever been forced to have sex with your partner when you didn't want to?

- _____ 10) Are you currently concerned about your physical safety?
- _____ 11) Are you currently concerned about the safety of your children?
- _____ 12) Are you currently concerned your financial security?
- _____ 13) Have you been to the hospital? To the police? To your family? To a traditional leader? How did they respond?

_____ Present all available options to your client. Many of the potential options are listed below. Record which options you present to your client and how your client responds to each option.

- _____ 1) Go to the clinic or hospital for treatment. (Monitor should accompany client)
- _____ 2) Go to police station to report the case. (Monitor should accompany client)
- _____ 3) Talk to her family. (Monitor should offer to help negotiate)
- _____ 4) Pursue promissory note in Magistrate Court. (Monitor should accompany her to court)
- _____ 5) Divorce/separation.
- _____ 6) Mediation.
- _____ 7) Traditional justice system.

_____ If the client is concerned about her safety, help her think through a safety plan. Encourage her to:

- 1) Tell a trusted person like a family member, counselor, doctor, or spiritual or community leader about his or her experience and why she feels that she is at risk.
- 2) Think of safe places to go to in case of an emergency, like a police station or a church and talk to the religious leader or a shelter if there is one available. (Monitor may help her talk to the community or religious leader).
- 3) Advise her to make an alarm so that neighbors can come to her rescue.
- 4) Keep away sharp instruments or weapons that could be used to hurt her.
- 5) Always have a packed bag of essential items at home and keep them in a safe place (e.g., important papers, extra clothes, identification, etc.)
- 6) Keep telephone numbers of close friends, relatives, police, religious leader or family doctor.

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CHECKLIST FOR SUPERVISOR REVIEW OF FILES

These are guidelines for a JPC supervisor to follow when reviewing the monitors' case files. Include this form and notes on any conversation you have with the monitor in the case file.

Case Name/Number

Supervisor Name

Date of Review

Overall questions regarding the case file:

Proper grammar and spelling in all the case documents

File neat and well-organized

By reading the case file, you were able to understand its facts and the resolution.

The monitor's monthly narrative report reflected the case facts and resolution in the file.

If you gave advice to the monitor about the case, that advice is in the case file.

Did the monitor complete the case intake form properly?

Clear and brief statement of the case

List of options presented to the client and reactions

List of actions taken

Case listed on the master new cases form

Did the monitor include all information in the case file?

Signed confidentiality agreement and client agreement

Copies of court documents

Copies of information received from an attorney on the case

Copies of documents provided by client

Copies of correspondence the monitor sent to client or other parties

Notes from all client meetings and any meetings with other parties / authorities

If the case has been closed, is the manner in which the case was resolved clear?

All documents related to the resolution of the case, including mediation agreement

Complete client evaluation form

Did the monitor complete the case log?

Every action recorded, including phone calls, meetings, home visits

If the case has been closed, date of closure recorded.

D. Intake Procedures

The client intake interview and additional intake procedures are critical elements in legal services delivery. These procedures can substantially influence how JPC effectively monitors are able to handle their cases. This section assesses JPC's current intake procedures and recommends tools to improve these procedures and ultimately improve the quality of services that JPC provides to clients.

JPC conducts an intake interview when a potential client comes to the office with a legal problem. They complete an intake form documenting the client's biographical information and legal issue. Sometimes JPC sends the potential client away to write a client letter to explain their problem and how they would like JPC to help. The monitors feel it is useful to have a written description of the dispute on file. (They also feel it is helpful to have a client write the description in case the client later wants to withdraw the case).⁴⁰

Two case studies illustrate some of the challenges JPC has had with intake. Consider JPC client Mark Anthony's case.⁴¹ Anthony's intake form notes that Anthony complained of a land dispute between his family and the Bafu family, that the dispute was not resolved in 1992, that a Senator ordered the Bafu family to plant rubber on Anthony's land, and that Anthony wanted JPC to intervene on his behalf. A monitor attached a copy of a tribal certificate to the case intake form.

During an interview with the Leitner Clinic, Anthony reported that his case was actually much more complex than the information on the case intake form indicated.⁴² Anthony revealed that the land dispute dated back to 1960; it involved three parties, the deaths of three people, and threats made against him and his family. Anthony further revealed that he was willing to mediate his land dispute and to pay more money for land he claims to rightfully own. JPC did not include any of this information in Anthony's case file, and in fact, the case file suggests that JPC did not know this information. If JPC knew the full story, the monitors would probably have handled Anthony's case differently. The monitors might have pursued mediation on the land dispute or pursued criminal action on the deaths.

Similarly, JPC client Edward West revealed information to the Leitner Clinic that was not in the JPC case file.⁴³ West's case file indicated that West contacted the JPC to resolve a non-violent family dispute between him and his daughter. He had kicked her out of the family home because of her behavior with men in the community. But West told the Leitner Clinic that his daughter had contacted the JPC first. Interestingly, the case file listed Edward, and not his daughter, as the client. The dispute and JPC's involvement continued for months, but the case file was only one paragraph long.

⁴⁰ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

⁴¹ Case Intake Form for JPC Client Mark Anthony, 10/22/2008.

⁴² Interview with JPC Client Mark Anthony, 10/21/2008, Harper.

⁴³ Interview with JPC Client Edward West, 10/23/2008, Barclayville.

In addition to difficulty recording all of the factual information in a case, JPC monitors report that they feel pressured to provide legal information during the intake interviews. The monitors seem to feel that they are expected to have a full legal explanation to a client's problem in their first meeting. They worry that they will later have to explain to the client that they did not provide all the information up front.⁴⁴

Recommendations:

- 1. Conduct longer intake interviews with more specific questions.** JPC monitors should conduct longer intake interviews and ask more specific questions to get a more complete understanding of the facts and legal issue presented. During the interviews, monitors should press clients for as much information as possible. They should ask clients to start at the beginning of the story and include all details that might possibly be relevant to the dispute. If a point is unclear to the monitors, then the monitors should ask the clients to explain. For example, in JPC client Mark Anthony's case, the monitors could have asked some of the following questions to obtain more details about the dispute:
 - What kind of dispute are you involved with?
 - A land dispute? What kind of land dispute?
 - Please give a detailed description of the dispute. You should include all details, not just the details that you think are important.
 - Is this only a land dispute? Is anything else going on in this case?
- 2. Implement procedures for interviewing GBV survivors.** JPC monitors report that they struggle with interviewing GBV survivors because they do not want to re-traumatize the survivors during the interviews.⁴⁵ The monitors should implement standard procedures for these interviews. The Leitner Clinic has drafted an addendum to the general intake form for monitors to use during intakes involving domestic violence. A copy is provided in Annex 2. JPC might also consider bringing a female monitor or community member to the interview to make the client more comfortable. (Refer to the "Gender-Based Violence, Trainings" section of this handbook for a detailed discussion on training female community members to assist with GBV cases).
- 3. Reassure monitors that they do not need to provide all possible information to a client during an intake interview.** No lawyer – or monitor – is able to answer every

⁴⁴ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

⁴⁵ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

legal question in the first meeting with a client. Their job is not to have all the answers immediately, but rather to know where and how to find the answers. Monitors can explain to the client that additional research and follow-up is often necessary to provide the client with the best possible information.

- 4. Replace client letters with client agreements.** JPC monitors should not rely on client letters to supplement intake interviews because the client letters will often be incomplete. Clients often do not know which pieces of information are most relevant to their cases. Their letters are likely to exclude information they feel is irrelevant that might actually be crucial to the case.
- 5. Provide practical training for monitors on how to conduct intake interviews.** Monitors could benefit from some basic practical training on how to gather important information during an intake interview. JPC might consider adding a workshop at one of their retreats in which monitors are provided with practical tips and asked to do mock interviews. TCC staff or friends could act as the clients.

E. Providing Options

JPC clients and monitors can usually pursue several different options to resolve cases. This section recommends that JPC provide all available options to clients and discusses specific issues on how and why to implement this recommendation.

Recommendation: Provide maximum number of available options to client and record client responses. JPC monitors should provide clients with the maximum number of available options for resolving the case. During a discussion with the Leitner Clinic, JPC monitor A.B. Wleemogar Tyler explained that his role as a monitor is not to tell people what to do or who is wrong and who is right, but rather to guide the process and give his clients information.⁴⁶ The goal is to provide clients with information and empower them to make their own decisions.

It is important not only to provide information to the client, but also to document what information is provided. Monitors should use the amended intake form and log to record options presented to a client and the client's response to those options.

JPC monitors should take special care to provide DV survivors with the maximum number of options available to them, and to record this information in the case file. (Refer to the "Gender-Based Violence, Domestic Violence Protocol" section of this handbook for a detailed discussion about why it is important to present all available options to DV survivors.)

⁴⁶ Interview with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

F. Follow-Up

JPC monitors should follow up on all open JPC cases. This section discusses procedures for follow-up, duration of follow-up, and documenting follow-up in case files. This section further discusses the following three situations where JPC monitors should continue to follow up on cases even after the cases have been resolved or been referred to an outside party:

- A case results in a signed mediation agreement, and JPC monitors follow-up with the appropriate people to ensure the parties to the agreement are abiding by its terms;
- A case is referred to an authority, such as the police or the formal court system, and JPC monitors continue to keep track of the case and assist the client if necessary;
- JPC monitors have contacted an authority on behalf of the client, and the monitors continue to follow-up with that authority after the initial contact.

General Recommendation: Follow up on all open JPC cases until the cases are resolved or closed and record all follow-up actions in the case log. Monitors and supervisors should systematically and continuously review open case files to determine whether follow-up is necessary. JPC monitors currently record details about follow-up on sheets of paper in their case files.⁴⁷ Attaching and completing a case log in each file instead will ensure that they record every single action in a case.

i. Mediation

JPC currently employs several productive follow-up measures. JPC monitors generally conduct thorough follow-up in cases they have successfully mediated. For example, in JPC client Edward West's case, JPC successfully mediated a family dispute between a father and daughter. Following the mediation, the JPC monitor regularly followed up with the father and daughter, continuing to counsel the father and daughter until the dispute was resolved.⁴⁸ JPC handled follow-up in this case very well.

Similarly, in JPC client Emily Young's case, JPC successfully mediated a property dispute between a widow and her late husband's family and resolved the case in Young's favor.⁴⁹ Following the mediation, the JPC monitor conducted two follow-up visits at one month intervals to ask Young whether the parties were abiding by the terms of the mediation. During each follow-up session, Young reported in the file that all parties were behaving appropriately.

Other organizations have developed excellent follow-up procedures in mediation cases. Paralegals at Madaripur Legal Aid Association (MLAA) in Bangladesh aggressively follow up

⁴⁷ Interview with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

⁴⁸ Interview with JPC Client Edward West, 10/23/2008, Barclayville.

⁴⁹ Case file of JPC Client Emily Young.

on mediation agreements and settlements to ensure compliance (MLAA page 47). MLAA uses societal pressure to encourage parties to a mediation agreement or settlement to abide by the terms of the settlement. If the parties are not abiding by the terms of the agreement, MLAA conducts additional mediation sessions to try to reach a new settlement that the parties will honor. If a mediation ultimately fails, the MLAA makes the community aware of the failure and the formal justice system intervenes in the dispute.

Paralegals at Timap in Sierra Leone often integrate a follow-up plan into a mediation agreement (Timap page 60). During the mediation, the paralegal will urge the parties to agree that the paralegal will follow up with the parties at agreed-upon intervals to monitor the parties' compliance with the agreement. Furthermore, all Timap mediation agreements include a clause stating that Timap may consider legal action if the parties break the mediation agreement.

Recommendation: Follow up with parties to a successful mediation to ensure compliance with the settlement terms.

ii. Domestic Violence Cases

JPC's follow up in DV cases also needs improvement. After JPC monitors mediate a DV dispute and the parties sign a mediation agreement, the monitors conduct follow-up visits to make sure that both parties are abiding by the mediation agreement.⁵⁰ When JPC monitors follow up in these cases, they should be very careful to protect the client's safety and preserve client confidentiality. Follow up visits – particularly those that are unannounced – could provoke more conflict between the couple. Before a monitor conducts a follow-up visit, the monitor should ask the client whether she would like such a visit.

JPC monitors should also try to ensure they are receiving accurate information about the results of the mediation. For example, in JPC client Emily Post's case, JPC mediated a DV dispute between Post and her husband.⁵¹ JPC monitors made two follow-up visits to Post's home where they spoke to Emily and her husband together. The presence of Post's husband during the follow-up visit might prevent Post from telling JPC about a breach of the mediation agreement.

Recommendation: Protect client safety and confidentiality when following up in DV cases. When JPC follows up in DV cases, JPC should be careful to visit the client only with her permission to protect her safety. And when the monitor does visit, he or she should talk to the client separately to preserve client confidentiality and ensure that the client has an opportunity to accurately report violence.

⁵⁰ Interview with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper. Note that we have concerns about the practice of mediation and mediation agreements in domestic violence situations. See the Gender-Based Violence section of this handbook for a full discussion of mediation in domestic violence cases.

⁵¹ Case file of JPC Client Emily Post.

iii. Referrals to formal authority

JPC monitors report that they follow-up with cases they refer to an attorney or to formal authorities.⁵² In JPC client Mark Anthony's case, however, the monitor's follow-up was insufficient.⁵³ When Anthony met with the Leitner Clinic, his land dispute was pending in Circuit Court and JPC had taken no action on his case. The monitor assigned to the case had not contacted him in months and was apparently waiting for the Circuit Court to convene so that Anthony's case could proceed. But Anthony told the Leitner Clinic that he was willing to mediate his dispute. JPC could have moved Anthony's case forward by following up with him and discussing his options while they waited for the formal court case to proceed.

Paralegals from the Legal Assistance Center (LAC) in Namibia provide real assistance after they refer cases to lawyers (LAC page 36). Paralegals help collect evidence, take statements from parties to the litigation, and gather necessary documents for the litigation.

Recommendation: Follow up after JPC refers the client's case to an authority.

When JPC refers a client's case to an authority such as the formal court system, traditional court system, or police department, JPC should follow up aggressively on behalf of the client. A monitor should serve as an advocate for a client who is navigating a challenging and often confusing legal system. Monitors are familiar with the system and authorities; they know both how the system operates and how the system *should* operate. Often, a monitor's mere presence alone protects a client. A monitor should accompany clients to the local authority or traditional leader, make introductions and explain procedures. JPC should continue to serve as a liaison until the case is resolved.

⁵² Interview with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

⁵³ Case file of JPC Client Mark Anthony; Interview with JPC Client Mark Anthony, 10/21/2008, Harper.

G. Teamwork

Collaboration among monitors can improve the quality of monitors' work and morale. This section discusses Timap's use of teamwork in Sierra Leone and recommends that JPC consider adopting some or all of Timap's teamwork strategies.

Timap employs several different mechanisms for encouraging teamwork among paralegals (Timap page 61). Timap has paralegals work together on cases, particularly difficult cases. This practice allows paralegals to exchange ideas and use each other's strengths to represent clients most effectively.

Timap rotates paralegals through different regional offices. These rotations expose paralegals to different legal issues and different legal systems. The rotation system also promotes paralegals' independence in the community. Paralegals remain in each community for a shorter period of time and form fewer personal relationships that might compromise their impartiality.

Timap paralegals refer their cases to paralegals in other communities when necessary. For example, if a Timap paralegal's client must go to court in a different community, the paralegal can refer the case to a paralegal in that community to attend court with the client.

Recommendation:

Increase collaboration among monitors. Teamwork and a collaborative working environment allow paralegals to learn from one another – and enjoy their work in the process. As JPC expands, they might consider instituting a policy that monitors should always be placed in a region in pairs. Monitors in Grand Kru, for example, currently work in areas far from one another. Although they communicate with one another often, they might appreciate a partner close by. JPC might also consider rotating paralegals to different counties or offices.

H. Mediation

JPC regularly employs mediation to resolve disputes, and they could benefit from a written protocol. JPC might model this protocol on Timap's example.

In Sierra Leone, Timap paralegals follow a rigid six-step mediation process for all mediations (Timap page 63):

- 1) Mediator provides the introduction and ground rules;
- 2) Each party tells her/his side of the story;
- 3) Mediator provides a summary of the legal facts;

- 4) Possible solutions;
- 5) Discussing solutions;
- 6) Reaching and agreement and writing the agreement.

Recommendation: Implement a written mediation protocol. JPC should implement a written mediation protocol to ensure professionalism and consistency across JPC mediations. A written mediation protocol would help community members to view JPC as more professional and legitimate and know what to expect when they come to JPC for mediation. A simple and written protocol may also cause parties to take mediation more seriously and thus ultimately improve their adherence to any agreement they reach.

Legal Referrals and Impact Litigation

A. Introduction and Key Recommendations

The ability to refer cases to litigation is an important tool for community-based legal advice centers. Paralegals do not have the authority to represent parties in court. Attorneys partnered with paralegal organizations, however, can litigate cases that are beyond the paralegal's competence.

The first part of this section explores referrals to attorneys. To whom are legal referrals made? What types of cases are referred to lawyers? What is the role of the paralegal after a case has been referred to a lawyer? The second part of this section discusses impact litigation – cases that have the potential to have an impact on the public good and address the rights of many people.

LEGAL REFERRALS & IMPACT LITIGATION: KEY RECOMMENDATIONS

- Refer cases that require litigation to Attorney Gbesioh:
 - o Failed mediation
 - o Court irregularities
 - o Land cases
 - o Labor cases
- Develop relationships with attorneys that take cases pro-bono
- After case is referred to attorney:
 - o Track case in court and attend all proceedings
 - o Update client file
 - o Assist attorney with factual investigation: collect evidence, interview witnesses, serve parties, prepare notes
 - o Explain court process to client
- Log recurring rights abuses for future litigation purposes

B. Making Legal Referrals

i. To whom are cases referred?

When the action needed to address a client's case is beyond a monitor's legal authority, a monitor may refer the client to an attorney. Attorney John Gbesioh, a lawyer assigned to work with JPC in Harper by the American Bar Association, litigates cases referred by JPC monitors.

Community-based advice centers typically refer cases to attorneys within their organizations or to partner law firms. The Legal Assistance Center (LAC) in Namibia and Kenya's Legal Advice Center, Kituo Cha Sharia (KCS), refer cases to lawyers within their organizations (KSC page 34 and LAC page 36).

Some organizations have developed partnerships with outside legal aid organizations or law firms. Bangladesh Rural Advancement Committee (BRAC) paralegals, for example, refer cases to the Bangladesh National Women's Lawyers Association (BRAC page 19). Civil Resources Development and Documentation Center (CIRDDOC) Nigeria partners with a private law firm to handle cases on a pro bono basis (CIRDDOC page 25).

PASI does not employ lawyers, but they also often refer several cases to attorneys (PASI page 53). They have a memorandum of understanding with the Minister of Justice and have developed a relationship with the Malawi Law Society and the Women's Law Society.

ii. What types of cases are referred?

JPC monitors refer both criminal and civil cases that are beyond their authority to Attorney Gbesioh. Monitors refer criminal cases most often. JPC frequently receives inquiries from family members of criminal defendants who have been arrested and detained. Because there are currently no public defenders in Harper, Attorney Gbesioh has become a prominent defense attorney in town.

In civil cases, JPC monitors refer cases to Attorney Gbesioh when a mediation breaks down or when the legal problem is beyond mediation.⁵⁴ Monitors also refer clients who come to JPC to report problems in court. If correct procedures have not been followed in a particular civil case because of corruption or ignorance, Attorney Gbesioh may investigate and raise these issues before the Magistrate or Circuit Court.⁵⁵

Paralegals in other organizations also refer cases when the legal issues are too sophisticated or when the case is beyond mediation. Paralegals with SALIGAN, in the Philippines, refer cases to lawyers when they are no longer capable of handling a case because the issues the case presents

⁵⁴ Interview with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

⁵⁵ Interview with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

are too legally sophisticated (SALIGAN page 58). Similarly, when PASI encounters a case that is too complicated or too serious to be handled by the paralegals, they will refer the case to the lawyers who will either work on it as a pro bono initiative (private lawyers) or as part of their job (state lawyers) (PASI page 53).

The paralegals at LAC Namibia refer cases to lawyers when the cases must be litigated. LAC has found that the following types of cases are typically referred to attorneys: land or inheritance, inheritance disputes involving women, labor disputes, child support cases, assault and domestic violence (LAC page 36).

iii. What is the role of the monitor after a case is referred?

The monitor's role does not end after a client's case has been referred to an attorney (unless the client and the monitor agree otherwise). The monitor should continue to maintain the client relationship and conduct follow-up. An important duty paralegals perform after a case is referred is explaining the court process to the client and attending all court proceedings to support the client. The monitors should update the client file with case status updates until the case is closed. s

Assisting attorneys with litigation is an important part of a paralegal's role. The paralegals at LAC Namibia collect evidence, take statements, and gather documents for the attorneys once a case has been referred for litigation (LAC page 36). PASI paralegals assist lawyers by visiting prison when a prisoner requires urgent assistance (PASI page 53).

Recommendations:

- 1. Continue to utilize Attorney Gbesioh to represent clients in litigation or particularly sophisticated disputes.**
- 2. Develop relationships with NGOs or private attorneys who are willing to take cases on a pro bono basis.** As the CLA program expands, JPC should develop relationships with legal service NGOs and attorneys in the new regions. Where a client is the victim of a crime (GBV or otherwise), JPC should refer them to the local county attorney, and may even consider assisting logistically with prosecution.
- 3. Provide guidelines for the types of cases to refer to Attorney Gbesioh (or other attorneys).** Monitors seem unsure about the types of cases or legal issues that they should refer. JPC could integrate a training on when and how to make legal referrals into their retreats. This training could also include how to follow up with cases once they have been referred.
- 4. Assist attorneys with case management after referral.** At Liberia's 2008 Rule of Law Conference, the Chief Justice expressed the view that paralegals can assist attorneys as they litigate cases by helping with the factual investigation, interviewing witnesses,

serving parties, and preparing notes and other case documents.⁵⁶ JPC monitors should continue to make it a regular practice to assist Attorney Gbesioh.

- 5. Follow up with clients after their cases are referred to lawyers.** As advocates, monitors can walk clients through the legal process by explaining legal issues, notifying them of hearings, and helping them prepare to testify. The monitor should attend all court dates and meetings with the client to provide moral support.

C. Impact Litigation

Impact litigation is a category of lawsuits that have the potential to better the public good by challenging a harmful or discriminatory law or practice. Impact litigation is concerned with the rights of large groups of people, rather than remedying the right of a single litigant.

Large-scale impact litigation is like impractical in Liberia in the current legal climate. Anthony Valcke, the American Bar Association representative in Liberia, reports that impact litigation in Liberia would be extremely difficult, expensive, and politically sensitive. The Green Advocates in Liberia filed an impact litigation case against Firestone, but the case failed in part because of corruption at every step of the legal process.⁵⁷

Impact litigation, however, does not necessarily have to involve large class action lawsuits. One precedent-setting case or a series of small cases may successfully challenge a harmful practice or change an unfair law. JPC may be able to conduct impact litigation on a case by case basis.

It may be useful to consider how some other community-based legal advice programs in other parts of Africa approach impact litigation. LAC Namibia only litigates public interest cases that will impact the community by creating a new rule, changing an existing law, or challenging a discriminatory practice or policy (LAC page 36). PASI Malawi, similarly, believes litigating one case would not be an efficient or effective use of time or resources when they could be educating 60-70 inmates instead. Cases are only brought when they will benefit more than one individual (PASI page 53). PASI Malawi is currently pursuing impact litigation on prisoners' rights. A favorable ruling in any of the cases would affect prisoners in similarly situated situations.⁵⁸

Timap has a flexible approach. Where litigation may have broader impact, Timap is more willing to pursue litigation. For example, Timap is currently suing a mining company for causing severe damage to a community's land and health; if they win, this case would have broad ramifications for the mining industry in Sierra Leone (Timap page 62). Timap attorneys will litigate two types of cases: cases in which the injured party suffers from a severe injustice, and cases in which a positive outcome in a case would have a broader legal impact in the

⁵⁶ Phone interview with The Carter Center's John Hummel, 10/2/2008.

⁵⁷ Interview with Anthony Valcke, 10/24/2008, Monrovia.

⁵⁸ Abeda Bhamjee, Proposal on broad based class relief for Malawian Prisoners (August 2008), on file with the authors.

community.⁵⁹ Although Timap does not litigate cases often, knowledge that Timap paralegals' clients have access to litigation assists the paralegals to obtain a peaceful resolution to a dispute.⁶⁰

Recommendations:

- 1. Choose a realistic type of impact litigation.** It appears that JPC does not have the capacity to conduct large-scale impact litigation at the present time. But impact litigation simply means litigating cases that challenge an existing harmful practice. A small lawsuit can cause a public official to follow the law or deter other wrongdoers from violating the law. JPC should take advantage of their lawyer and refer cases where a favorable result could serve the public good. Even if the case does not go forward, it will be a statement to the courts that JPC is prepared to litigate, and a statement to wrongdoers that JPC is willing and able to fight for the legal rights of the community.
- 2. Log recurring rights abuses.** JPC monitors can keep a log of recurring human rights abuses and inform the JPC lawyers and coordinators of the incidents recorded; at a later date, JPC may have more capacity to pursue broader impact litigation.

⁵⁹ Vivek Maru, *Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide*, 31 *Yale J. Int. L.* 427, 452 (2006).

⁶⁰ Maru, *Between Law and Society*, 452 (“our capacity to litigate adds strength to our paralegals’ work as advocates and mediators”).

Gender-Based Violence

A. Introduction and Key Recommendations

As in many countries and societies, gender-based violence (GBV) remains a tremendous and complicated problem in Liberia. The numerous interviews the Leitner Clinic conducted in Liberia only confirmed that GBV is a massive and complex problem.

Perspectives on GBV varied widely. Several parties reported that survivors report GBV incidents more frequently than they did in the past because the stigma attached to these crimes has lessened.⁶¹ Rape, domestic violence (DV), physical assault, sexual harassment, and sexual exploitation of children are currently the most common forms of GBV in Liberia. This section and this report address rape and domestic violence.

Domestic violence remains a part of daily life in communities amongst all generations. Although young people seem to be more aware of GBV issues, they are not immune from violence in their dating relationships. Interviews suggested that most people believe that violence in interpersonal relationships is unfortunate but common – and certainly not criminal.

Rape is also prevalent. Advocacy around the Rape Law of 2005 has led to more awareness and prosecution of sexual violence. In the past year in Maryland County, approximately eleven rape cases have been prosecuted, and three of those cases resulted in convictions. Rape is still, however, widely under-reported. Survivors and their families are reluctant to subject perpetrators to the harsh sentences imposed by the new Rape Law, and as a result report only the most severe cases such as child rape. The more frequent but no less traumatic rape that occurs within marriage or long-term dating relationships is never reported to authorities.

This section first assesses JPC's current practice in domestic violence cases and rape cases. The section suggests that JPC reflect about their approach to and assumptions about gender-based violence and that JPC collectively adopt standard protocols. This section also recommends that JPC conduct more trainings to facilitate better and more complete legal services delivery to GBV survivors. Finally, this section recommends that JPC continue to conduct sensitizations on GBV issues in the community.

⁶¹ Interview with SEWODA members Marie C. Tobey, Valeria B. Samalee, Marah A. Suku, Comfort B. Hinneh, Cecilia M. Williams, and Regina W. Jarpee, 10/21/2008, Harper; Interview with residents of Pleebo, translated by NRC Monitors James Appleton and Patrick Monbo, 10/22/2008, Pleebo; Group interview with residents of Cavalla, translated by NRC Monitors Alfred Harmon and Ovester Quaye, 10/22/2008, Cavalla.

GENDER-BASED VIOLENCE: KEY RECOMMENDATIONS

- Develop a standard protocol for handling DV cases
- Present all available options to DV survivors, including the following options:
 - o Promissory notes
 - o Divorce and separation
 - o Safe houses
 - o Child maintenance payments
- Use new case forms when handling DV cases
- Develop a standard protocol for handling rape cases
- Train a woman in each community to assist monitors with GBV cases on an as-needed basis
- Train hospital workers on the basic legal aspects of GBV
- Conduct sensitizations on GBV issues

B. Domestic Violence

In discussion with the Leitner Clinic, the JPC monitors described their general approach to domestic violence and their concerns about balancing their reputation in the community with the needs and wellbeing of their clients.⁶² This section evaluates JPC's practices and recommends that JPC adopt a standard DV protocol to protect survivors from abuse without sacrificing JPC's reputation.

i. Presenting Options

When a client comes to JPC for help with DV, the monitor first considers her safety and asks whether she is physically injured or whether the offender has threatened further harm. The

⁶² Interviews with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

monitor will present the survivor with the following choices, and he or she will rarely impose one particular choice if the client's safety is in jeopardy:

- **Police.** If the monitor finds that the abuser is threatening additional violence, the monitor advises the survivor to report the abusive incident to the police. The monitor will never refer a domestic violence case to the police without the survivor's consent.
- **Family.** The survivor may choose to leave the abuser and go stay with a family member.
- **Safe house.** The survivor can go to a safe house.⁶³

If, however, the JPC monitor determines that the survivor is not in immediate danger, the monitor may offer the following advice:

- **Formal legal action.** The monitor may advise the survivor that she can pursue criminal charges in the formal court system. One client, for example, went to court when her ex-husband stalked her, entered into her home, and beat her. The ex-husband was forced to pay a fine for the assault and signed a promissory note, promising never to come near her again.
- **Child maintenance payments.** If the survivor has children with the abuser and worries that the abuser will not provide for them, the survivor can pursue child maintenance.
- **Pursue mediation to reconcile with the abusive spouse.** In almost every case where the survivor is not in immediate danger, monitors encourage domestic violence survivors to reconcile with their spouses and mediate their disputes.⁶⁴ The monitor serves as a neutral mediator between the two spouses. He or she will ask the parties what the dispute is about – why the husband chose to beat his wife. And then the parties will sign an agreement in which the wife promises not to do whatever caused him to beat her, and he in turn promises not to hit her. Once an agreement has been reached, the monitors will visit the couple to make sure that there is no violence in the home.

JPC monitors always encourage a client to reconcile with their spouse because they do not support divorce or separation. JPC monitor Caroline Doe and the JPC monitors in Barclayville gave three primary reasons for discouraging separation and divorce.⁶⁵

- 1) Monitors do not want the community to perceive JPC as an organization that separates couples. (Refer to the “Advocate Mediator Dilemma, JPC Concern with Community Perception of JPC's Work” section of this handbook for a complete

du A. Kromah, 10/20/2008, Harper.

Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

discussion about the concern about community perception and steps JPC can take to counter negative community perception about JPC's work);

- 2) Monitors fear that abusers will not continue to support their children after a separation or divorce. (Note that monitors can use child maintenance to negotiate with abusers to support their children after divorce or separation.); and
- 3) Women who are not legally married to their abusive spouse have very few legal rights during a separation.

ii. Mediating Domestic Violence

The Leitner Clinic is concerned about JPC's practice of encouraging mediation and reconciliation in most or all cases of domestic violence. It is true that mediation may seem appropriate in some cases. A survivor may wish to remain in the relationship because she has nowhere else to go, because they have children together, or simply because she loves him and wants to be with him. This is her choice. Mediation may honor her wishes, preserve the relationship and may even reduce the violence.

But even in these cases where the survivor indicates that she wants to reconcile and mediate the case, the type of mediation that JPC is providing may reinforce some of the assumptions that underlie the abuse. JPC typically mediates with both spouses in the room, but it is unlikely that women are comfortable to talk about abuse in front of their abusers. A survivor may be timid and fearful during mediation, while the offender may be confident and powerful. In this scenario, mediation may only reinforce the inequality of power in the relationship.

The resolutions of these mediations are also troublesome. Consider a mediation agreement in which the wife promises to cook for her husband and he promises not to beat her. Does this agreement not reinforce the concept that safety can be bargained for? The first principle in providing care for a survivor of violence is to tell her that the abuse is never her fault; there is nothing she or anyone can do to deserve to be beaten. But an agreement between the couple may inadvertently reinforce the message that the spouse has the permission to beat her if she does not fulfill her end of the bargain. (For a full discussion, refer to the "Advocate/Mediator Dilemma, Advocate/Mediator Dilemma in GBV Cases" section of this handbook.)

Follow-up in mediation cases, although well-intentioned, may also have negative consequences. Monitors told us that they often go to a home and talk to the couple together. They said that in their experience, once an agreement has been reached, the couples tend to be very happy with the arrangement and rarely experience violence in their relationship again. In Emily Post's case, for example, the case file reported that there had been no recurrence of violence. But both times the monitors visited the home, they spoke with Emily and her husband together. It is unlikely that Emily would have felt free to discuss what really happens behind closed doors. Moreover, follow up visits – particularly those that are unannounced – could provoke more conflict between the couple.

There are some cases where mediation is not appropriate at all. JPC may want to reconsider where they draw this line. In their current practice, JPC monitors heavily discourage women from leaving abusive husbands unless they are in imminent danger. When a survivor comes to JPC and says that she would like to leave or get a divorce, JPC encourages her to mediate the dispute and reconcile with her spouse.⁶⁶ In these cases, JPC's decision to encourage mediation directly conflicts with the survivor's wishes.

In Emily Post's case, for example, Emily told the JPC monitor that she wanted to separate from her husband. Her husband had abused her for many years, and one particularly violent incident prompted Emily to seek help from JPC. The monitor encouraged her to reconcile with her spouse and mediate the dispute. In this case, the monitor's decision to counsel Post to mediate the dispute is concerning. If Post wanted to leave her husband or go to the police, why should JPC counsel her to mediate the dispute? Moreover, when Emily came to JPC, she was visibly injured. If JPC has a policy not to mediate cases where the survivor is in danger, did the monitors decide that Emily was not "at risk" despite her injury? It is unclear where JPC draws the line between severe and minor abuse, or between safety and risk.

JPC's support of the institution of marriage is commendable, and their aversion to tarnishing their reputation in the community by "breaking up families" is understandable. (Refer to the "Advocate/Mediator Dilemma, JPC Concern with Community Perception of JPC's Work" section of this handbook.) But these practices may be inadvertently harming the women that JPC honestly desires to help and reinforcing the perception in the community that domestic violence is simply a part of life that should be tolerated.

Other organizations face similar challenges and dilemmas about how to approach domestic violence. Many have struggled with the question of whether and when to mediate a domestic violence dispute, and most have decided not to mediate domestic violence. Timap for Justice's (Timap) paralegals will not mediate domestic violence cases (Timap page 62). Paralegals from the Bangladesh Rural Advancement Committee (BRAC) in Bangladesh will also not mediate domestic violence cases because domestic violence is illegal and BRAC's paralegals will not mediate disputes that involve illegal activity (BRAC page 19).

Instead of mediation, many organizations refer clients to the police and formal justice system, which reinforces the message that domestic violence is a crime and should not be tolerated. Paralegals from Black Sash in South Africa encourage domestic violence survivors to refer their cases to the police and to the formal court system for prosecution (Black Sash page 22).

In Zimbabwe, Legal Resources Foundation (LRF) paralegals will not mediate domestic violence cases and instead refer all domestic violence cases to the police (LRF page 41). They also help domestic violence survivors to apply for restraining orders, peace orders, and maintenance payments. When domestic violence survivors choose to leave their husbands, LRF paralegals mediate between the survivor and her family to negotiate the family's problems with the survivor leaving her husband.

Recommendations:

1. **Develop a standard protocol for domestic violence cases.** The JPC monitors in Barclayville have asked for a standard protocol for GBV cases.⁶⁷ In a workshop setting, JPC could reflect about their practices and develop their own written protocol to establish how to approach domestic violence cases. JPC may use the DV Checklist provided in the Annex to start the conversation about the types of practices they would like to adopt collectively.

JPC should decide if they want to mediate domestic violence cases at all, and if so, which types of cases. JPC currently does not mediate cases if they believe that the survivor is in immediate danger. They might consider deciding not to mediate any DV cases at all. Or they could develop indicators, such as whether the survivor *wants* to reconcile and mediate the dispute.

2. **Present all available options to a DV survivor and empower her to make the best choice.** The following list is not exhaustive; it primarily discusses options JPC does not typically employ:

Promissory notes. JPC monitors could help DV survivors to pursue promissory notes in magistrate court. A promissory note is a legally enforceable document in which the abuser promises not to harm the survivor, or in some cases not to come near the survivor. If the abuser breaches the terms of the promissory note, the abuser can suffer legal consequences, such as incarceration. Magistrate judges have used promissory notes in cases of disorderly conduct, simple assault, and debt.⁶⁸

Magistrate Howe described a case where a defendant was charged with civil assault and criminal trespass on his ex-wife; he had invaded her home and assaulted her, causing serious injury. Magistrate Howe fined the man \$500 LD and ordered him to sign a promissory note that he would stay away from his ex-wife. The promissory note was a compromise: he would not serve a prison sentence unless he violated the note.

The survivor to whom Magistrate Howe was referring was actually a JPC client, and JPC assisted her in obtaining this note. She now carries a copy with in case her ex-husband arrives at her home again. If he does, she will be able to show the promissory note to the neighbors or to the police. JPC should consider employing this same strategy with all of their survivor clients.

Divorce and separation. JPC monitors should present divorce and separation as options for DV survivors. It is the role of the monitor to empower the survivor to make her own choice about whether she would like to leave. Monitors should honor her choice by

⁶⁷ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

helping her with the divorce or separation process. JPC may consider helping women to negotiate with their extended families to allow them to leave their husbands and return to their homestead.

JPC is concerned about their reputation, but they could emphasize to the community that JPC does not separate couples but helps DV survivors to pursue their desired course of action. (Refer to the “Advocate/Mediator Dilemma, JPC Concern with Community Perception of JPC’s Work” section of this handbook for a detailed discussion about how JPC can help DV survivors to separate from abusers without alienating the community.)

Safe houses. When a survivor comes to the JPC for assistance with a DV case, the JPC monitor should advise the woman that she can go to a “safe house,” a location where she can stay safely away from the abuser. If there are safe houses in locations where JPC works, JPC should form relationships with those safe houses so that monitors can refer DV survivors to them.

Child maintenance payments. JPC should use child maintenance payments to resolve DV cases where the feuding couple has children. Child maintenance payments ensure that an abuser continues to support his children following a separation or divorce from his wife. Child maintenance payments can be a very successful strategy for protecting DV survivors from further abuse and ensuring that their children still receive financial and material support.

JPC has successfully used child maintenance payments to resolve DV disputes in the past. JPC monitor Caroline Doe negotiated a child maintenance agreement between a man and a woman during mediation. When the man did not abide by the agreement, JPC intervened and helped the man to deliver the child maintenance goods. In this case, JPC achieved an excellent outcome for the client.

3. **Consider “shuttle” mediation.** If JPC continues to mediate cases, they should develop a safe approach to mediation. They could consider shuttle mediation, which means that the mediator meets with only one party at a time. As a result, the abuser does not have the opportunity to grandstand in front of the survivor or a mediator, and the survivor has the opportunity to talk openly and honestly about her experiences.
4. **Consider prohibiting mediation agreements in domestic violence cases.** JPC may also reconsider whether to allow mediation agreements in domestic violence cases. Mediation does not necessarily need to result in a formal agreement where each party promises something to the other. A mediation in a domestic violence case might consist of the monitor – more of an advocate than a neutral mediator in this case – educating the offender about the law regarding domestic violence. Instead of bargaining with safety, the monitor would remind the offender that abuse is never, ever justified. Indeed, an “agreement” in such a case would really be a sort of promissory note in which the offender promises not to abuse the survivor. But the survivor need not offer anything “in return.”

C. Rape Protocol

JPC currently employs a consistent and well-developed approach to handling rape cases. During the Leitner Clinic's visit, JPC monitor Caroline Doe handled two rape cases in an exemplary manner. JPC's approach maximizes survivors' rights and truly works to protect survivors' interests. This section discusses JPC's approach to handling rape cases and other organizations' models. It ultimately recommends that JPC adopt a formal protocol for rape cases.

JPC monitors have handled rape cases exceptionally well. When a survivor reports to JPC or is referred by the police or another party, a JPC monitor responds immediately. In the cases that the Leitner Clinic has heard about, the monitor told both the survivors and their families that the rapes were not their fault. She reminded them that there was nothing that they could do, say, or wear to deserve to be raped. The monitor encouraged the survivor and her family not to compromise the case or handle the case in the "family way" and encouraged them to report the crime to the police.⁶⁹

Monitors have served as advocates for survivors, helping them to navigate the health and legal systems. In one case, the monitor met the survivor at the police station and accompanied her to the hospital where she ensured that the survivor received the treatment with a specialist. In another case, the JPC monitor was involved in helping to obtain a medical report as evidence at trial.

JPC's practice in these cases exceeds the standards of many other organizations. Many paralegal organizations immediately refer rape survivors to formal authorities. WACOL in Nigeria, LRF in Zimbabwe, and Black Sash in South Africa refer rape cases to the criminal justice system, but they do not necessarily follow up in these cases. (WACOL page 69; LRF page 41; Black Sash page 22).

Timap in Sierra Leone has a more nuanced approach to rape case. Timap's paralegals do not immediately refer a rape case to the formal authorities (Timap page 62). Instead, Timap's paralegals first take the survivor for medical treatment and take measures to ensure her protection. The paralegals then explain to the survivor her rights and options, including the right to refer the case to the police and to pursue criminal prosecution. If the survivor chooses to refer the case to the police, Timap's paralegals will accompany the survivor through the complaint and prosecution process.

Paralegals from several organizations remain involved in rape cases after referring the cases to the formal authorities. In the Philippines, SALIGAN's paralegals use their knowledge of court procedure and substantive law to help rape survivors who are pursuing cases in the formal court system (SALIGAN page 57). The paralegals also provide non-legal information to rape survivors in crisis. Similarly, paralegals from the Bangladesh Rural Advancement Committee (BRAC) in Bangladesh take rape survivors to the hospital and then to the police if the survivors

⁶⁹ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

want to refer their cases to the formal court system (BRAC page 19). After referring rape cases to the formal court system, BRAC's paralegals assist the court with the prosecution by providing logistical support such as transportation to the courthouse and witness preparation.

Recommendation: Develop a standard protocol for handling rape cases. JPC monitors currently handle rape cases very well. Caroline Doe serves on the Protection Task Force, and she has learned how to care for survivors effectively. She maintains confidentiality, never blames the survivor, encourages the survivor to prosecute the case, accompanies the survivor to a medical clinic, works with the police to investigate, and assists the survivor throughout the legal process. It might be useful, however, to formalize this practice into a standard protocol to ensure that all monitors approach rape cases as effectively as Caroline. JPC's standard protocol could include the following elements:

- Accompany rape survivors to health clinics to make sure that they receive medical treatment;
- Negotiate with survivors' families to explain that rape is not the survivors' fault and that survivors require family support after a rape;
- Advise rape survivors about the legal process and the pros and cons of prosecution, and encourage the survivor to prosecute the case;
- Accompany rape survivors to the police if they decide to prosecute their cases. The monitors can guide the survivors through the referral process and later help the police with the investigation, including gathering sensitive evidence from the survivor;
- Serve as victims advocates, liaise with the county attorney and clerk, and guide survivors through the court process;
- Monitor the case through every part of the system, ensuring that court officers do not re-traumatize the survivor. If the monitor is present at every step of the process, she can ensure that the survivor is not taunted by the offender's family in the courtroom, or that the survivor is not forced to pay a fee to have the offender arrested.

D. Trainings

Training is an essential element in legal services delivery, particularly in GBV cases. This section offers two specific recommendations for trainings JPC can conduct to better serve GBV survivors in communities where JPC monitors work.

Recommendations:

- 1. Train a woman in each community to serve as needed to assist monitors with GBV cases.** The JPC monitors in Barclayville report that GBV survivors would be more

comfortable if JPC had a female monitor to work with them.⁷⁰ In areas where no female JPC monitor is working, JPC can train a female community member to work with male monitors when GBV cases arise. If a female community member is present for discussions about GBV, the survivor might feel more comfortable discussing the details of her case.

- 2. Train health professionals on the legal aspects of GBV.** Health professionals are often the first responders in a rape or domestic violence case. They are often asked about the survivor's legal options. Cora Donyen at Merlin recommends that JPC train Merlin staff on basic legal issues that pertain to GBV, including confidentiality, referrals, and the court process.⁷¹
- 3. Continue to conduct sensitizations about GBV issues in the community.**

⁷⁰ Interview with residents of Pleebo, translated by NRC Monitors James Appleton and Patrick Monbo, 10/22/2008, Pleebo.

⁷¹ Interview with Cora Donyen, Merlin, 10/21/2008, Harper.

Land

A. Introduction and Key Recommendations

Land disputes constitute a formidable problem in Liberia, and in some instances are too sensitive for community-based paralegal mediation. Nevertheless, JPC can fill a much needed justice gap regarding land issues. JPC mostly deals with land disputes between individuals, although JPC served on a community board in a recent land dispute between two communities.

Large-scale community land disputes may be beyond JPC's capacity to mediate without specialized training in land mediation. However, as discussed below, even when JPC is not willing or able to formally mediate a land dispute, they could facilitate community dialogue around the issue.

JPC can address individual land-disputes through mediation, legal education, or referral to customary or formal legal bodies. In circumstances where JPC has a good relationship with traditional leaders, monitors can assist in land disputes at the local level and provide advice to traditional authorities.

LAND: KEY RECOMMENDATIONS

- Train monitors to identify different types of land disputes
 - o Receive briefings from land experts and NGOs working on land issues
- Train monitors in land dispute mediation
- Train monitors to decipher when land disputes should be handled through mediation, formal courts or customary law bodies
- Work with relevant authorities to present workshops on land registration and procedures for land disputes
- Use the inheritance and property laws as useful tools to mediate cases, especially cases involving women
- Use the general land laws to conduct advocacy, outreach and education; explain the procedures for handling land disputes in different forum

B. Types of Land Disputes

Identifying the most common types of land disputes will enable JPC to develop strategies to resolve those disputes and to conduct education workshops.

Recommendation: Arrange periodic briefings from land experts, land commissioners and NGOs such as the Norwegian Refugee Council. Such briefings would help the JPC to gain a stronger understanding of land dispute trends nationally and locally.

Interviews conducted with John Hummel of the Carter Center,⁷² Jeanette Carter of the University of Liberia,⁷³ Maryland County Land Commissioner Saturday Ziah,⁷⁴ and Maryland County Land Registrar Anthony Cooper⁷⁵ revealed categories of land disputes involving land records management, property rights and widow disinheritance, communal property rights, returning refugees and internally displaced people, and ethnic tensions.

⁷² Phone interview with The Carter Center's John Hummel, 10/2/2008.

⁷³ Interview with Jeanette Carter, University of Liberia, 10/24/2008, Monrovia.

⁷⁴ Interview with Maryland County Land Commissioner Saturday Ziah, 10/20/2008, Harper.

⁷⁵ Interview with Maryland County Registrar Anthony Cooper, 10/20/2008, Harper.

i. Land-Records Management

Land records management is chaotic in Liberia. Many land disputes are the result of fraudulent deeds or multiple deeds to the same plot. Often, there may exist an old fraudulent deed and many subsequent innocent purchasers; or vice-versa. This creates a dilemma for courts because although the oldest deed usually grants title, there is often no way to verify land claims or deeds.

An interview with Land Registrar Anthony Nyema Cooper revealed the extent of the chaotic methods of land-record keeping. Cooper keeps the only copies of large ledger books with recordings of Maryland County land deeds from the 1840s to the present in his home, a practice which he acknowledges is “very risky.” The circuit court calls upon Cooper to testify in court proceedings and reviews the ledger to check the validity of titles in land disputes. Cooper stated that he conducts sensitizations to encourage people to legally register their land titles.

Recommendations:

- 1. Partner with Registrar Cooper to conduct sensitizations on the land laws and the process of land title registration.** Registrar Cooper already conducts community sensitizations on land title registration; partnering with Cooper to reach out to communities, especially in the rural areas, would help prevent land disputes that arise when individuals have not registered their land titles.
- 2. Conduct advocacy regarding land records management.** If possible, JPC should meet with local government officials and advocate for land records to be systematized, copied and kept securely in a government office rather than in Registrar Cooper’s home.

ii. Property Rights and Widow Disinheritance

Under Liberian customary law, when a woman’s husband dies, his property is transferred to a male relative and the widow is sometimes expected to marry the male relative. Under Liberian statutory law, women have the right to inherit property.

JPC should continue and expand its effective methods in handling property disputes involving widow disinheritance. In many cases, JPC explains to the parties, either in joint mediation or separately, that women have the legal right to inherit land. This is often enough to resolve the dispute. Emily Young, a JPC client in Bassa community in Harper, was kicked off her land by her brother-in-law after she refused to marry him following her husband’s death.⁷⁶ A Norwegian Refugee Council monitor brought the case to the JPC’s attention. JPC’s handling of the case was straightforward and effective: they explained the property and inheritance laws regarding women to the brother-in-law and told him that the land legally belonged to Young. Young reports that her brother-in-law has dropped his claims to her land, and she has since moved back into her home. Young was very pleased with the quality of JPC’s mediation.

⁷⁶ Interview with JPC Client Emily Young, 10/21/2008, Harper.

Balay Alternative Legal Advocates for Development in Mindanaw (BALAOD), a legal services organization in the Philippines that focuses on land issues, has adopted a similar approach to widowhood and disinheritance cases, with a focus on advocacy and education (BALAOD page 15). BALAOD organized a campaign around recently passed land reform laws. BALAOD educated paralegals in communities about the new land laws so that they could petition the government to enforce the law.

The Women's Aid Collective in Nigeria (WACOL) uses the Land Registration law as a tool when mediating cases of widowhood disinheritance (WACOL page 68). Often, as in Emily Young's case, simply explaining the statutory law to parties in mediation will resolve the dispute in the woman's favor. WACOL also attempts to convince formal courts to recognize informal marriages under the color of law, so that the Land Registration laws apply. This has met with limited success, but is an example of using the law creatively.

Recommendations:

- 1. Use the inheritance and land laws as legal and educational tools.** JPC should continue to use these laws in mediation and also structure outreach and education campaigns surrounding the inheritance laws.
- 2. Partner with relevant authorities to educate communities about the inheritance laws.** In developing and presenting education workshops regarding property rights and widow disinheritance, JPC could partner with relevant authorities and NGOs, including village chiefs, the Land Commissioner, the District Commissioner and the Land Registrar.

iii. Communal Property Rights

Communal property disputes often arise over poorly-defined boundaries between communities, communal use of land, and corporate or governmental encroachment on communal land.

JPC has not dealt with many communal property disputes. In a recent land dispute between communities in Rocktown and Bigtown that resulted in violence and several deaths, JPC was a neutral participant on a committee chaired by the Superintendent. Mediation by governmental parties failed, giving rise to violence between the communities.

The Federation of Liberian Youth (FLY) conducts outreach to youth and encourages them not to resort to violence regarding land disputes.⁷⁷ FLY indicated a desire and willingness to work with JPC to receive training and assist in calming community tensions in land disputes.

⁷⁷ Interview with FLY members H. Edward Dostemn, J. Epharian Yeah Jo, H. Hodu Wilson, D. Daniel Howe, Emmanuel, A. Gyude Moore, Grace Williams, Beniface Nyema, Alphonso Wright, Steve Toe, 10/21/2008, Harper.

Recommendations:

1. **Maintain neutrality and avoid perceptions of bias.** JPC should be cautious about associating too closely with government committees or agencies dealing with communal land disputes. Communities often accuse governmental authorities involved in communal land disputes of bias and may view JPC as a non-neutral party in the conflict if they are too closely aligned with government efforts.
2. **Mobilize youth advocates.** The JPC should be skeptical of the tendency of older leaders to blame youth for causing land disputes by not respecting traditional land tenure arrangements and could mobilize youth, through groups such as FLY, to be advocates and educators in defusing potential land disputes.
3. **Help communities understand their options.** Even if the JPC is not willing or able to mediate a community land dispute, the JPC can help communities engage in dialogue and understand the positives and negatives of the different legal and non-legal options available to resolve the dispute.

iv. Returning Refugees and Internally Displaced People (IDPs)

Liberia experienced large numbers of refugees and internally displaced people (IDPs) during the civil war. As these populations return home, conflicts often arise over land residency. The potential for conflict is especially high in Nimba and Lofa counties, where Jeanette Carter writes that: “Members of the Mandingo ethnic group fled to neighboring countries, essentially abandoning rural and urban properties. In their absence, local residents of other ethnic groups have claimed these properties, claiming that they were fraudulently obtained. Now that the refugees are returning, the potential for conflict is extremely high.”⁷⁸

The civil war also disrupted long-standing informal land-tenure relationships. Land Commissioner Ziah explained that some current land disputes occur because informal agreements before the war regarding land boundaries and land-tenure arrangements did not include deeds, titles or formal arrangements.⁷⁹ These problems are more acute in the northern part of Liberia, including Nimba and Lofa counties, but may become a more common source of land disputes as more refugees return to Liberia. John Hummel reports that roughly 2000 refugees will be returning from Ghana in the fall of 2008.⁸⁰ The United Nations High Commission for Refugees is managing refugee returns.

Recommendation: Monitor refugee and IDP return to the southeast. If land conflicts arise in the southeast because of refugee and IDP return, JPC might consider developing

⁷⁸ Jeanette Carter, Pathways for Ensuring Access to Justice in Liberia: Land Tenure Reform and Beyond, on file with the Carter Center.

⁷⁹ Interview with Maryland County Land Commissioner Saturday Ziah, 10/20/2008, Harper.

⁸⁰ Phone interview with The Carter Center’s John Hummel, 10/2/2008.

partnerships with UNHCR and the Norwegian Refugee Council to strategize how to work with communities on the issue.

v. Ethnic tensions

Ethnic tensions may lead to land disputes. Although this is not very common in the southeastern counties where JPC currently works, as the organization expands into other regions JPC should remain sensitive to this issue. Ethnic prejudice and bias can prevent members of certain ethnic groups, especially Mandingos, from receiving fair treatment in formal and customary law bodies.

C. Choice of Forum in Land Disputes

i. Assessing Where Land Disputes Should be Resolved

There is not a standard ‘formula’ for determining the most appropriate forum for a land dispute. In making the determination of whether a land dispute should be adjudicated in the customary or formal realm or through mediation, JPC should ask “how can we best help the parties achieve justice?” rather than “where does this ‘type’ of land dispute belong?” A justice-driven choice of forum inquiry should be fact-specific, and the JPC should gather as many facts as possible by asking questions, examining the dispute from different perspectives, and talking with the client about their options: Is there a legally registered title? Are the parties willing to settle out of court? Will this dispute have broader community implications? Monitors should make sure to carefully address the specifics of each land dispute.

Recommendations:

- 1. Analyze the benefits and drawbacks of choosing a forum by asking “how can we best help the parties achieve justice?”**
- 2. Train monitors to explain land law procedures in different fora. JPC should train** monitors to explain to clients the different processes and rules for adjudicating land disputes in customary and formal law.

ii. Communal Land Disputes

Jeanette Carter, a researcher at the University of Liberia, listed several reasons why formal courts might not be the preferable forum for land disputes, especially in cases of community disputes.⁸¹ In a community dispute over demarcation of boundaries, for example, a formal court would be a “zero-sum game” where there are winners and losers, not adequately reflecting communal land-use sharing arrangements. Formal courts are notoriously corrupt, which might lead the “loser” in

⁸¹ Interview with Jeanette Carter, University of Liberia, 10/24/2008, Monrovia.

the land dispute to not respect the verdict. In addition, when circuit court judges handle land disputes, the cases are not given top priority and remain inactive for long periods of time.

Jeanette Carter advises that some kind of alternative dispute resolution mechanism would be a good method of dealing with communal land disputes in Liberia. If monitors conduct mediation on land disputes, Jeanette Carter advises that they be specifically trained in techniques for land disputes. To better reform the ability of formal courts to handle land disputes, she advocates that the government create a separate civil chamber within the circuit court to process land disputes, which has already occurred in Monrovia.

D. Status of the Proposed National Land Commission⁸²

The Liberian government is currently in the process of deciding on the mandate, scope and membership of a proposed Land Commission. The legislature has approved the formation of the Land Commission, but it has not yet been formed. The legislature formed a steering committee, which includes donors, civil society, government and private parties. There are two main issues that are delaying the formation of the Land Commission: first, whether it should be a permanent or temporary Commission, and second, whether members should be full-time or part-time and appointed permanently or with term-limits.

The purpose of the Land Commission will likely be to establish guidelines for land disputes and most importantly, to review customary land tenure rights. The Land Commission is unlikely to adjudicate land disputes itself. Jeanette Carter believes that the central government must recognize community rights to land if they are to resolve land crises; and that trying to impose individual title on all land in Liberia would not adequately reflect how the country functions and manages property.

A major hurdle in addressing land disputes is the lack of “land professionals” in Liberia. In order to adequately investigate and address land issues, the Land Commission should be guided by advice from land economists and input from researchers on best practices in other dualist legal systems. There is no ‘inventory’ of land disputes in Liberia and no government office or NGO that keeps track of these disputes on a national level.

⁸² Information for this section comes from an interview with Jeanette Carter, University of Liberia, and Anthony Valcke, American Bar Association Representative, 10/24/2008, Monrovia.

Advocate/Mediator Dilemma

A. Introduction and Key Recommendations

When JPC takes on a case, they must decide whether mediation is an option for resolving the dispute. If mediation is pursued, JPC must then decide whether to mediate as an advocate for the client, or as a neutral mediator whose primary function is to help the parties reach a resolution. This section discusses the advocate/mediator dilemma generally; JPC's current position on the advocate/mediator dilemma; the advocate/mediator dilemma as applied to cases of gender-based violence (GBV); other organizations' ideas and methods of addressing the advocate/mediator dilemma; and JPC's concern with community perception of JPC's work. This section recommends ideas and standards JPC can adopt for addressing the advocate/mediator dilemma.

ADVOCATE/MEDIATOR DILEMMA: KEY RECOMMENDATIONS

- Continue the current practice of never mediating a rape case
- Decide whether to ever mediate a domestic violence (DV) case:
 - o If JPC chooses to continue the practice of mediating "minor" domestic violence cases, establish a protocol for when mediation is permissible
- Establish guidelines for when monitors mediate as advocates and when monitors mediate as neutral mediators
- Prioritize DV survivors' interests over community perception of JPC's work

B. Advocate/Mediator Dilemma Generally

The advocate/mediator dilemma has two levels. First, the monitor must decide whether mediation is the best avenue for resolving a dispute. The monitor might decide that advocacy on behalf of the client is a better option. Second, if the monitor decides to mediate a dispute, the monitor must then decide whether to serve as an advocate for the JPC client who is party to the mediation, or as a neutral mediator. If the monitor chooses to mediate the dispute as an advocate for the client, then the monitor's goal is to achieve the best possible outcome for the client. If the monitor chooses to mediate the dispute as a neutral mediator, then the monitor's goal is to resolve the dispute in a way that is acceptable to both parties.

The advocate/mediator dilemma emerges in many different types of cases. When a JPC client is involved in a land dispute with another party, should JPC advocate for the client or try to help the parties reach an amicable resolution to the dispute? When a JPC client is involved in a wage dispute with his employer, should JPC advocate for the client in the dispute or help the client and the employer reach a mutually acceptable settlement?

JPC already has a clearly established position on the advocate/mediator dilemma in some types of cases. JPC will not mediate rape cases, for instance, because rape is a criminal act and JPC does not mediate criminal cases.⁸³

JPC monitors sometimes acts as an advocate and sometimes as a neutral mediator. For example, JPC chose to advocate on behalf of client Emily Young during her land dispute mediation.⁸⁴ Young's brother-in-law kicked her off her land after she refused to marry him following her husband's death. JPC explained the property and inheritance laws to the brother-in-law, and told him that the land belonged to Young. The brother-in-law accepted the statutory law explanation and withdrew from the dispute.

JPC chose to mediate neutrally in JPC client Edward West's case.⁸⁵ West had a non-violent family dispute with his daughter. To resolve the dispute, the JPC monitor conducted 30-minute-long counseling sessions. The monitor always met with the two feuding parties separately. Ultimately the monitor brokered an oral mediation agreement between West and his daughter. West is delighted with the resolution of his case. He reports that a neutral mediator was valuable in his case because he was too emotional and irrational to handle the dispute himself.

Organizations handle the advocate/mediator dilemma differently. Some organizations act as advocates for their clients during all mediations. In Sierra Leone, Timap for Justice incorporates advocacy into all parts of their work (Timap page 62). During mediations, Timap advocates for their clients when they encourage the parties to accept a just mediation agreement. In the Philippines, SALIGAN usually advocates for their clients during mediations, and always advocates for their clients when they mediate a DV dispute (SALIGAN page 57).

⁸³ Interview with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

⁸⁴ Interview with JPC Client Emily Young, 10/21/2008, Harper.

⁸⁵ Interview with JPC Client Edward West 10//23/2008, Barclayville.

Paralegals from other organizations always act as neutral mediators during mediations. In Mali, Deme So acts as independent, neutral party during mediations (Deme So page 29). During a Deme So mediation, the paralegal listens to each party's version of the dispute separately. The paralegal then synthesizes the information and presents it to both parties to help them reach an agreement. The paralegal might also gather information from outside parties to help the parties to the dispute reach an agreement. Paralegals from the Bangladesh Rural Advancement Committee (BRAC) always act as neutral mediators during a mediation (BRAC page 19). BRAC paralegals facilitate the mediation and help the parties to reach an agreement.

Some organizations combine advocacy and neutral mediation when mediating cases. The next section discusses this approach in the context of GBV cases.

Recommendation: Decide when monitors should act as advocates during mediation and when monitors should act as neutral mediators. Generally, JPC should decide which cases warrant advocacy and which cases warrant neutral mediation. JPC should address DV cases separately from all other cases. In other cases, JPC can consider certain issues when deciding when to advocate and when to mediate neutrally like whether a client would be likely to win the dispute in the formal or traditional justice system. If statutory or traditional law is clearly in the client's favor, JPC should advocate for the client in the mediation. If the law is not clearly in the client's favor, JPC should more strongly consider a neutral mediation to help the parties to reach an amicable settlement. If the client expresses flexibility about case resolution, JPC should prioritize mediating neutrally.

C. Advocate/Mediator Dilemma in Gender-Based Violence Cases

The advocate/mediator dilemma is particularly important and complicated in GBV cases. When handling a GBV case, the JPC monitor must first decide whether to mediate the dispute. If the monitor decides to mediate the dispute, the monitor must decide whether to advocate for the client who is the survivor, or neutrally mediate the dispute between the feuding parties and help them to reach a peaceful resolution. JPC has already established that monitors will not mediate rape cases.⁸⁶ However, JPC has not established rules or protocols that address mediation in domestic violence cases. This section discusses the advocate/mediator dilemma in the context of DV cases. This section recommends that JPC establish rules and protocols for mediation in DV cases and discusses different ideas and procedures JPC can consider when establishing these rules and protocols.

JPC client Emily Post's case is useful for discussing the advocate/mediator dilemma in the context of a domestic violence case. In Emily Post's case, JPC monitors chose to neutrally mediate the dispute.⁸⁷ Emily's husband had abused her for many years, and one particularly

⁸⁶ Interview with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

⁸⁷ Interview with JPC Client Emily Post, 10/21/2008, Weah's Village.

violent incident prompted Emily to seek help from JPC. Emily told the JPC monitor that she wanted to separate from her husband. The monitor encouraged her to mediate the dispute. JPC mediated neutrally between Emily and her husband and helped them reach a mutually agreeable settlement. Post reports that she is happy with the resolution of her case and that her husband is abiding by the terms of the mediation agreement. In this case, the monitor's decision to counsel Post to mediate the dispute is concerning. If Post wanted to leave her husband or go to the police, why should JPC counsel her to mediate the dispute? Furthermore, when JPC mediated the dispute between Post and her husband, why should JPC mediate the dispute neutrally instead of advocating aggressively for Post during the mediation?

Some organizations advocate for their DV clients during mediations. In the Philippines, SALIGAN's paralegals always advocate for their clients when they mediate a DV dispute (SALIGAN page 57). Paralegals from the Legal Resources Foundation (LRF) in Zimbabwe advocate for their clients who are DV survivors (LRF page 41). In these cases, the paralegals mediate between the survivor and her family to negotiate the family's problems with the survivor leaving her husband. The paralegals always advocate for their clients during these mediations.

Some organizations combine both advocacy and neutral mediation when handling domestic violence cases. For example, when a DV survivor approaches the Liberian National Police Women and Children Protection Unit's Deputy Manager Thunder Tiklo for assistance with a minor DV case, Tiklo first asks her questions in order to understand the dispute, and then asks her whether she wants him to interview her husband as well.⁸⁸ If so, Tiklo interviews the husband and during the interview warns the husband not to beat his wife. He then shows the husband a copy of the Liberian penal law stating that the abuse is illegal. By taking these actions, Tiklo is advocating for the DV survivor. Tiklo then begins the neutral mediation phase of his intervention when he asks the two parties to separately write lists of aspects of their relationship they want to change. He brings the parties together and they negotiate the two lists to reach an agreement regarding what elements of their relationship they will change to prevent violence in the future.

Tiklo's position on the advocate/mediator dilemma within the DV context raises some concerns. For example, during his mediation, a woman might have to agree to prepare her husband's dinner on time in order to avoid abuse. Such a concession during the mediation suggests that the woman was somehow at fault for the abuse she suffered due to her previous failure to perform a certain act. Domestic violence advocates would view this type of concession as problematic and a betrayal of the idea that violence in the home is never warranted under any circumstances.

SEWODA in Liberia acts as a neutral mediator during DV mediations,⁸⁹ and their mediations suffer from the same problem as Tiklo's mediations. When SEWODA mediates a DV dispute, they gather information about the case from the two parties. They then explain assault laws to the abuser and counsel him to talk to the survivor instead of beating her in the future. SEWODA

⁸⁸ Interview with Liberian National Police Women and Children Protection Unit Deputy Manager Thunder Tiklo 10/22/2008, Harper.

⁸⁹ Interview with SEWODA members Marie C. Tobey, Valeria B. Samalee, Marah A. Suku, Comfort B. Hinnah, Cecilia M. Williams, and Regina W. Jarpee, 10/21/2008, Harper.

then counsels the survivor to alter her behavior in some way in order to avoid future violence. When reviewing Tiklo's and SEWODA's mediation strategy in DV cases, JPC should carefully consider whether they want to take a similar position on the advocate/mediator dilemma. JPC might not want to conduct mediations where women must admit some fault for being abused, therefore implicitly condoning the abuse.

Recommendations:

- 1. Continue the practice of never mediating a rape case.**
- 2. Decide whether to ever mediate domestic violence cases.** JPC currently mediates DV disputes in which they determine that the women's life or safety is not at immediate risk. JPC should decide whether to continue this practice.
- 3. Establish a protocol for when mediation is permissible if JPC chooses to continue the practice of mediating "minor" DV cases.** In DV cases, if a client chooses to pursue formal court action instead of mediation, JPC should assist the client. If JPC is concerned about the client's safety and the client wants to pursue mediation, JPC should consider advising her to pursue an alternative course of action. Client safety should be of primary concern in DV cases.

JPC currently refuses to mediate DV cases in which they determine that the woman's safety or life might be at risk. When dealing with the advocate/mediator dilemma in DV cases, many organizations, including JPC, decide to only mediate "minor" DV cases. If JPC continues this approach, JPC should clearly define what constitutes "minor" abuse and what constitutes "severe" abuse. It is important to note that many domestic violence advocates would strongly argue that there is no such thing as "minor" abuse, as all abuse is unacceptable. JPC could also decide that as a policy they will never mediate a DV dispute because domestic violence is a criminal act.

When and if JPC decides to continue with domestic violence mediations, JPC must decide whether to be an advocate for the client or a neutral mediator. JPC must balance the survivor's rights and the desire to reach an amicable settlement between the feuding parties. JPC could adopt a firm policy that monitors will always advocate for DV survivors in mediation. Alternatively, JPC could adopt a standard where monitors will sometimes advocate during mediations and sometimes neutrally mediate. If JPC decides on the latter, they should consider which survivor concessions in a mediation are unacceptable.

D. JPC Concern with Community Perception of JPC's Work

JPC monitors in Barclayville expressed concern about the community's perception of JPC's work.⁹⁰ The monitors indicated that they often mediate a dispute instead of advocating for a client because they are afraid of alienating the community by advocating too aggressively on a client's behalf. This section discusses the monitors' concern and recommends that the monitors sometimes advocate on a client's behalf in spite of the community's potential reaction to the advocacy.

JPC monitors in Barclayville expressed particularly strong concerns about the community's perception of JPC's work on domestic violence disputes. Accordingly, the monitors have altered their case strategies in DV cases to avoid upsetting community members. JPC monitors heavily encourage their DV clients to pursue mediation instead of reporting instances of domestic violence to the police.⁹¹ The monitors fear that if JPC encourages or helps DV survivors to pursue court action against their husbands, communities will regard JPC as an organization that separates couples. Monitors feel that if the violence is not severe encouraging couples to reconcile is the best option.

While the monitors' might have valid concerns, prioritizing community perception of JPC's work over the safety and interests of a DV survivor can actually compromise the survivor's safety and leave her in an abusive relationship. If JPC monitors alter their case handling strategy in DV cases in order to assure the community that JPC does not separate couples, JPC might compromise the safety and best interests of DV survivor clients. Furthermore, JPC's concessions to community opinion risk suggesting to the community and to abusers that DV will be tolerated.

Recommendation: Prioritize DV survivors' interests over community perception of JPC's work. DV survivors who come to JPC for help trust that JPC will advocate for their best interests and protect their safety. If JPC were to continually choose to protect DV survivors rather than surrendering to community pressure, their advocacy might gradually help to change community perception that DV is an acceptable practice and that DV survivors should remain in abusive relationships.

⁹⁰ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

⁹¹ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

Monitoring Courts and Customary Law Bodies

A. Introduction and Key Recommendations

Monitoring formal courts and customary law bodies is an essential part of providing access to justice in Liberia. Introducing actors with integrity and professionalism into these institutional settings improves justice services and provides a counterweight to corrupt and gender-biased practices.

MONITORING COURTS AND CUSTOMARY LAW BODIES: KEY RECOMMENDATIONS

- Accompany clients to formal courts
 - Monitor court proceedings for non-clients when possible
- Explain court procedures and legal terminology to clients
 - Include a court procedure checklist in case files and intake forms
- Incorporate education about court procedures into community sensitizations
- Accompany clients to customary law proceedings, especially women
- Coordinate with local police and court magistrates to be informed when a client is scheduled for court proceedings
 - Establish a memorandum of understanding
 - Keep a register in the police station.

B. Formal Court System: Accompanying Clients to Court and Explaining Court Procedures

One of the most important services JPC monitors provide regarding the formal court system is advising clients on court procedures and rules. JPC client Milly Matthew happily stated that JPC explained court procedure, the legal process, and legal terminology and accompanied her to court.⁹² Although she was very “disturbed” about her first court appearance, JPC helped her feel confident and knowledgeable.

If a client decides to go to court, JPC should ensure that monitors explain court procedures and terminology by placing this activity on a checklist on the case file form. For instance, monitors could easily check off a list of items to explain to clients, including substantive legal information, and the basic procedures and requirements of evidence, proof, documentation and witness testimony. In addition, monitors could explain court protocol. For example, monitors could explain what the court will look like, where the parties will sit, the layout of the courtroom, and how to address the judge.

Explaining court procedure to clients is especially important in cases of rape and sexual assault. SALIGAN, a legal services organization in the Philippines, trains its paralegals to explain court procedure to victims of gender-based violence (SALIGAN page 56). Any woman who brings a rape case to court should be aware of whether or not she will be asked to testify, what to expect as a witness, and whether her identity will be public.

Accompanying clients to formal courts and providing legal and personal support to clients in an unfamiliar setting benefits the client and may also prevent judges from taking advantage of clients by asking for bribes. Lisulo Lisulo, UNMIL Human Rights Coordinator in Harper, stated that “watchdogs are often not present when corruption in a court takes place.”⁹³ JPC’s presence before magistrate judges might reduce corruption and abuse of power.

Community members should be educated about court procedures even if they are not JPC clients. JPC could design a brief workshop that explains the basics of court procedures, including how to file a case and the type of claims that are legally allowed. JPC could include such a workshop as a component of larger community education workshops.

Recommendations:

- 1. Accompany clients to formal courts.** JPC monitors should accompany clients to formal courts in all cases and when possible, monitor public court hearings even for non-clients.

⁹² Interview with JPC client Milly Matthew, 10/21/2008, Harper.

⁹³ Interview with Lisulo Lisulo, UNMIL Human Rights Coordinator, 10/21/2008, Harper.

2. **Use a checklist or addendum to intake forms for court procedure.** Monitors should make sure that they cover all useful and relevant information when explaining court procedure and terminology to clients.
3. **Prepare short community workshops about court procedures.**

C. Customary Law Bodies

Customary and traditional law bodies are often more accessible than formal courts to community members. JPC currently engages with traditional leaders, but the extent to which JPC monitors these bodies or accompanies clients to customary law forums is unclear.

If a client decides to pursue mediation in a traditional forum, JPC should make all efforts to be present at the traditional forum. This process, however, must start much earlier, by building trust with traditional leaders. (Refer to the “Traditional Leaders” section of this handbook.) JPC should also engage these forums with sensitivity to gender bias and with the conscious goal of influencing the dialogue in a way that stresses women’s rights. JPC’s presence in customary forums, like their presence in formal courts, would lessen the likelihood that abuses will take place, including abuses against women.

Other organizations also stress the need to cultivate relationships with traditional authorities and monitor customary law bodies to lessen the likelihood that abusive and unfair practices will occur. Recognizing the gender bias against women, especially in widowhood disinheritance cases, made the Women’s Aid Collective (WACOL) of Nigeria more committed to monitoring customary courts (WACOL page 68). After initial resistance from traditional leaders, and subsequent outreach efforts by WACOL, traditional authorities now often request the WACOL paralegals to come to their courts and provide legal assistance.

Similarly, a large part of the work of the Bangladesh Rural Advancement Committee (BRAC) involves intervening in traditional arbitrations and mediations for sexual assault and GBV, which they often view as biased against women. Women leaders from SEWODA in Liberia explained that in cases of domestic violence where a woman has no family, SEWODA will help the woman approach the chief to represent her in these negotiations.⁹⁴

Recommendation: Accompany clients to customary law proceedings, especially women.

⁹⁴ Interview with SEWODA members Marie C. Tobey, Valeria B. Samalee, Marah A. Suku, Comfort B. Hinnah, Cecilia M. Williams, and Regina W. Jarpee, 10/21/2008, Harper.

Mobile Clinics

A. Introduction and Key Recommendations

Mobile legal aid clinics help extend the reach of legal services organizations into rural communities. Mobile clinics visit rural communities periodically to offer mediation services, conduct outreach and education workshops, and to inform people about legal and political developments.

JPC will launch a mobile clinic program within six to twelve months to extend their services to hard-to-reach and under-served rural communities. Crucial to the success of mobile clinics are issues related to frequency, duration, and quality of visits and the continuity of relationships between communities and the JPC.

The Leitner Clinic recommends that JPC model its clinic after the mobile legal aid clinic successfully run by Timap for Justice, a paralegal organization in Sierra Leone (Timap page 59). Timap for Justice established a mobile legal aid clinic to respond to the needs of rural villagers, many of who cannot afford to travel the necessary distances to reach Timap offices. Timap for Justice's mobile clinic program is described in detail within this section.

MOBILE CLINICS: KEY RECOMMENDATIONS

- Visit the same mobile clinic sites on a regular, rotating basis:
 - o Identify which communities to visit
 - o Hold sessions in a central location that allows for confidentiality
- Establish volunteer advocates in each site to inform people about the mobile clinic
- Incorporate sensitization workshops and provision of concrete legal services into mobile clinics
- Form relationships with traditional leaders and form community oversight boards in order to build trust with rural communities

B. Timap for Justice’s Mobile Legal Clinic

i. Choosing Clinic Centers

Timap divides the chiefdoms into four clusters and visits a “clinic center” located in each cluster. The mobile clinics visit each cluster once a month, following a weekly Friday rotation (the first community on the first Friday of the month, the second community on the second Friday of the month, etc.). A regular visiting schedule ensures community members know when Timap is coming and increases turnout to the clinic centers.

Recommendations:

- 1. Visit the same mobile clinic sites on a regular, rotating basis.**
- 2. When choosing which communities the mobile clinic will visit, consider a number of factors that will ensure the mobile clinic has the most impact.** Some factors to consider include distance and access to JPC regional offices, the importance of the community as a hub of activity (e.g., market or trading center), and the types of issues and problems facing the community.

ii. Meeting Space and Confidentiality

Timap’s mobile clinic receives clients in a central open structure or hut that exists in most villages and is used for community meetings. If this is not available, they may receive clients in a school compound, on the veranda of a chief’s house, or in another open, public space.

Recommendation: Hold sessions in a central location that allows for confidentiality.

iii. Community Contact Volunteers

Each Timap mobile clinic site has a community-chosen “contact person” who serves as a link between the community and the paralegals. The contact person organizes the complaints for the mobile clinic visits, reminds people when the paralegals will be in the village, and encourages people to take their problems to the clinic. In an extreme emergency, the contact person calls the paralegals and asks them to come to the village. Contact people are volunteers, but the paralegals sometimes use their own money to make small gestures of thanks to the volunteers. If Timap could secure funds to pay the contact people, it would assist in recruitment and retention.

Although Timap does not currently train contact people, some training would be useful, especially trainings that stress that contact volunteers should not charge community members for their assistance.

Recommendation: Establish volunteer advocates in each mobile clinic site.

iv. Mobile Clinic Activities and Cases

Cases

Timap's mobile clinic handles the same range of cases as the regional offices. Some visitors to the mobile clinics get results the same day; others may have to wait until the clinic's return visit, or may need to travel to the paralegal office. Some complex cases may last the entire day of the mobile clinic visit, which causes difficulties when many people have cases. People in the community also attend the mobile clinics for general legal advice.

Because mobile clinics are only in a community for a short time each month, there is a danger that the quality of legal services will deteriorate. Timap ensures that it handles mobile clinic cases with the same level of care and attention that it does in a regional office, even if it is more difficult to conduct follow-up or if the cases take longer to resolve.

Community Sensitizations

Timap conducts community sensitizations, which involve dialogue sessions with local authorities and the community, as part of the mobile clinic, based on issues that are important to the community. Sometimes community sensitization meetings take up the entire paralegal mobile clinic visit.

Recommendation: Conduct community sensitizations during mobile clinics.

v. Building Trust with the Community

Building trust with rural and isolated communities is essential to the success of a mobile clinic.

Timap establishes Community Oversight Boards (COBs) to build relationships with local leaders. Chiefs and community members appoint the COB members who have knowledge of the community's customary laws. The COBs aid the paralegals on customary law issues and help them to approach other leaders in the community. The COBs were instrumental in establishing the mobile clinics in rural villages because they introduced Timap to other chiefs and explained the benefits of having Timap conduct mobile clinics in the village. The COBs have also helped identify community members to serve as contact volunteers for the mobile clinics. COBs accompanied the mobile clinics on their first visits to communities and also helped with

logistical matters, like securing accommodation for the paralegals during their visits and securing office space.

Building trust with traditional leaders and community members will help JPC identify specific issues that are important to communities served by the mobile clinic. When the JPC mobile clinic visits a community for the first time, the JPC could hold a community-wide meeting to ask people what issues they would like the JPC to address.

Recommendation: Form relationships with traditional leaders and form community oversight boards in order to build trust with rural communities served by the mobile clinic.

Traditional Leaders

A. Introduction and Key Recommendations

Traditional leaders play a substantial role in the administration of justice in rural Liberia. This section recommends that JPC partner with traditional leaders to facilitate JPC's work and adopt additional tools for improving access to justice in rural communities.

TRADITIONAL LEADERS: KEY RECOMMENDATIONS

- Use parish-based committees to involve traditional leaders in JPC's work
- Train traditional leaders on rule of law issues
- Use traditional leaders to identify new monitors
- Increase JPC presence in rural communities and in the traditional justice system
- Continue to work with traditional leaders to eliminate harmful forms of traditional justice

B. JPC Partnership with Traditional Leaders

Traditional leaders administer traditional justice and influence social norms and behavior in rural communities. JPC's partnership with traditional leaders is crucial to maximizing JPC's success in rural communities. This section discusses JPC's current outreach efforts to traditional leaders and recommends that JPC work with traditional leaders to improve Liberians' access to justice.

Before JPC starts working in a new community, Project Officer Thomas Mawolo first visits the local chief to explain JPC's work.⁹⁵ Mawolo attempts to ease any fears the chief may have that JPC's aim is to encroach on his authority. Before JPC begins to work on cases in the community, the chief and JPC hold a community meeting about JPC and rule of law issues. JPC should not overstress the limits of their role when engaging with traditional leaders, however, because monitors may at times have to challenge the authority or rulings of these leaders.

Whenever JPC conducts community workshops, JPC always involves traditional leaders. JPC monitors feel it is very important that traditional leaders have the same knowledge about rule of law issues as the community members.

Other organizations use similar methods to engage traditional leaders. Before paralegals from the Civil Resources Development and Documentation Centre (CIRDDOC) in Nigeria start working in a new community, they first visit the community's traditional leaders to gain their support and familiarize them with CIRDDOC's practices (CIRDDOC page 26). Paralegals from the Women's Aid Collective (WACOL) in Nigeria first encountered substantial resistance from traditional leaders in Nigerian communities (WACOL page 68). In response to this resistance, WACOL explained the role of paralegals to the traditional leaders and asked the traditional leaders to nominate women for paralegal training. The traditional leaders quickly warmed to WACOL's practices. Traditional leaders now ask WACOL's paralegals to help them resolve disputes in traditional justice tribunals. Similarly, in Mali, Deme So's paralegals find that educating traditional leaders on the role of paralegals counters resistance (Deme So page 29). In the Philippines, SALIGAN also works to build trust with traditional leaders before commencing substantive work in a community (SALIGAN page 57).

Some organizations ask traditional leaders to nominate community members to serve as paralegals. CIRDDOC uses this practice to eliminate traditional leaders' resistance to the paralegals' presence (CIRDDOC page 26). WACOL also uses this practice (WACOL page 68). Although this practice raises the possibility that the paralegal will be reluctant to challenge the traditional leader, no paralegal program we interviewed identified this as a problem. Paralegal nominations from chiefs should be treated as recommendations and not final decisions.

Traditional authorities are much more willing to allow paralegals to handle disputes in their community after receiving training from paralegals. Paralegal organizations often train traditional authorities to understand the statutory law. The Legal Assistance Center in Namibia

⁹⁵ Interview with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

(LAC) trains traditional authorities on the Land Reform Act and the laws that govern customary chiefs (LAC page 37). LAC also educates the chiefs to use the paralegals as a tool to help implement statutory law. The Legal Resources Foundation (LRF) in Zimbabwe also trains traditional authorities (LRF page 41) by emphasizing the differences between statutory and customary law. LRF trains traditional leaders on statutory laws that govern domestic violence, inheritance, and other women's rights issues (LRF page 41). As a result, the traditional leaders increasingly refer women to the LRF for dispute resolution.

In Sierra Leone, Timap implemented a very formal structure to form strong relationships with community leaders (Timap 64). Timap developed Community Oversight Boards (COBs) to bridge gaps between Timap's paralegals, traditional leaders, and community members. Community members and paramount chiefs nominate local leaders to the COBs; each COB includes at least one woman and one youth member. The COBs feed information about the community to Timap so that Timap can better help community members access justice. The COBs also foster trust between Timap and the community. Timap partners with the COBs to conduct regular community meetings. Timap's COBs are a truly innovative solution to many problems that paralegal programs face. JPC should carefully examine Timap's COBs and consider implementing a similar structure in Liberia.

Recommendations:

- 1. Use parish-based committees to involve traditional leaders in JPC's work.** Refer to the "Outreach, Developing Relationships with Local Authorities" section of this handbook for a detailed discussion about increasing the use of parish-based committees to cement relationships with traditional leaders.
- 2. Train traditional leaders on rule of law issues.** Traditional leaders play a particularly powerful role in many Liberian communities and can strongly influence behavior. Educating traditional leaders on rule of law issues, such as the illegality of rape and domestic violence, can gradually alter community attitudes toward certain practices. Refer to "Outreach" for a more detailed discussion about educating traditional leaders on rule of law issues.
- 3. Use traditional leaders to identify new monitors.**
- 4. Consider forming community oversight boards.**

C. Role of Monitors in Rural Communities and in the Traditional Justice System

The majority of Liberians live in rural communities. Most Liberians do not engage with the formal court system and only seek legal redress in traditional justice tribunals in rural communities. This section recommends that JPC expand monitors' presence in rural communities and in traditional justice tribunals to reach more clients in need.

Traditional leaders continue to administer harmful forms of traditional justice. Harper District Commissioner Alfred Thompson reported that traditional leaders administer sassywood and other harmful forms of traditional justice in Harper and in the villages that surround Harper.⁹⁶ Thompson explained that even the police are sometimes afraid to handle cases that involve these practices.

JPC monitors explained that eliminating practices like sassywood is a serious challenge because chiefs believe that no adequate substitute for these practices exists.⁹⁷ They believe that traditional leaders are the key to addressing harmful practices, and they have already begun working with traditional leaders to provide a substitute to sassywood: non-court alternatives to dispute resolution.⁹⁸ This is an excellent practice and JPC should continue to work with traditional leaders to eliminate harmful forms of traditional justice.

Recommendations:

- 1. Increase JPC's presence in rural communities and in the traditional justice system.** Because so many Liberians live in rural communities and access justice primarily through the traditional justice system, JPC should increase their presence in rural communities and in the traditional justice system. Refer to the Monitoring Courts and Customary Law Bodies, and Mobile Clinics sections of this report for detailed discussions about increasing JPC's role in rural communities and in the traditional justice system. This increased role should include helping clients to navigate the traditional justice system and advocating for clients in customary law bodies.
- 2. Continue to work with traditional leaders to eliminate harmful forms of traditional justice.** Both Harper District Commissioner Alfred Thompson and Harper Mayor Regina Sampson feel that JPC should work with community leaders to conduct sensitizations on the harmfulness of certain forms of traditional justice in order to eliminate those practices.⁹⁹ Thompson has offered to send some of his staff into rural communities with JPC monitors to conduct these sensitizations on traditional justice practices and rule of law.

⁹⁶ Interview with Harper District Commissioner Alfred Thompson, 10/20/2008, Harper.

⁹⁷ Interview with JPC Monitors Caroline Doe, Benetta Sebo, and A.B. Wleemogar Tyler, Coordinator Thomas Mawolo, Attorney John Gbesioh, and TCC's Bindu A. Kromah, 10/20/2008, Harper.

⁹⁸ Interview with Jeff Austin, The Carter Center, 10/21/2008, Harper.

⁹⁹ Interview with Harper District Commissioner Alfred Thompson, 10/20/2008, Harper; Interview with Harper Mayor Regina Sampson, 10/20/2008, Harper.

Sustainability and Government Recognition

A. Introduction and Key Recommendations

Strengthening sustainability is necessary for the JPC Community Legal Advisors program to continue to provide access to justice in Liberia. Sustainability includes continued financial viability as well as community support. Government recognition of community-based paralegal programs occurs differently throughout the world; some organizations believe government recognition contributes to sustainability, while others argue it limits their independence.

SUSTAINABILITY & GOVERNMENT RECOGNITION: KEY RECOMMENDATIONS

- Continue to employ paid CLA monitors
- Consider allowing the government to play some role in paralegal compensation but continue to pursue external sources of funding
- Involve communities in the selection and oversight of paralegals through the creation of community oversight boards.
- Create a paralegal code of conduct
- Train paralegals in new skills that can increase their utility to the community in the future

B. Financial Support for the Community Legal Advisors Program

JPC's CLA program is currently funded by the Carter Center and UNHCR. A recent grant will provide funding for the next fourteen months, including support for creation of mobile clinics and expansion of the CLA program to central Liberia.¹⁰⁰ There are two possible paths to CLA program's financial sustainability following the Carter Center's withdrawal: The government could provide funding, or the CLA program could continue to function as an externally-funded NGO.

Other paralegal organizations are funded in various ways. Some paralegal organizations rely on volunteers. In Mali, Deme So's paralegals are all volunteers, but some villages provide the paralegals with offices or other types of support to acknowledge the benefit they bring to the community (Deme So page 29). The Women's Aid Collective (WACOL) in Nigeria pays only its full-time paralegals; they reimburse part-time paralegals for small expenses (WACOL page 69). Other organizations, like JPC, pay all their paralegals and are fully funded by foreign donors. The Legal Resources Foundation (LRF) in Zimbabwe pays its paralegals in U.S. dollars funded by external donors. Previously, the Zimbabwean government paid the salaries of LRF administrators, but the government is no longer willing or able to do so (LRF page 42). The Legal Assistance Center (LAC) in Namibia and the Civil Resources Development and Documentation Center (CIRDDOC) in Nigeria are also donor-supported (LAC page 37; CIRDDOC page 26).

Governments provide funding for some paralegal organizations or play a role in channeling the funds to the NGOs. Malawi's Paralegal Advisory Service Institute (PASI) pays the paralegals' salaries with external funding that passes through the Ministry of Justice and Constitutional Affairs. However, since this structure was established, PASI paralegals have not been paid their salaries for three months (PASI page 54).

In South Africa, the Department of Justice committed to pay a stipend to paralegals working on the following matters: maintenance applications, domestic violence, community education on the Service Charter for Victims of Crime, restorative justice, bail, Small Claims Court, equality legislation, and human rights. The Department of Justice also offered paralegals use of their computers (NADCAO page 49). The experience of paralegals paid by South Africa's Department of Justice has not been evaluated.

Recommendations:

- 1. Continue to employ paid monitors.**
- 2. Consider allowing the government to play some role in paralegal compensation but continue to pursue external sources of funding.** If the Liberian government formally recognizes paralegal programs, JPC may consider encouraging a government role in the financial support of the CLA program. However, when considering the wisdom of this

¹⁰⁰ Interview with Jeff Austin, The Carter Center, 10/21/2008, Harper.

path, JPC should recall the experience of PASI paralegals in Malawi who have experienced difficulties since funding has been channeled through the government.

C. Building Strong Ties with Communities

In addition to requiring financial sustainability, a successful community-based paralegal program is one that has become a valued part of the community.

A report on South Africa's Nation Alliance for the Development of Community Advice Offices emphasized the importance of encouraging a "culture of volunteerism" in South Africa to increase sustainability of community-based paralegal programs by increasing the amount of people willing to work in advice offices (NADCAO page 49). In LRF Zimbabwe, local businesses support the NGO, by providing, for example, free internet service to the paralegals (LRF page 42).

Sustainability involves community participation in the selection and oversight of paralegals. Kenya's Legal Advice Center – Kituo Cha Sharia (KCS) paralegals are chosen by the village chiefs (KCS page 34). Deme So's paralegals are chosen by the communities where they will serve (Deme So page 29). Legal Rights and Natural Resources Center – Kasama sa Kalikasan (LRC) in the Philippines also hires paralegals that are chosen by the community (LRC-KSK page 45). WACOL's paralegals are recommended by church leaders (WACOL page 69). Timap for Justice's Community Oversight Boards (COBs) ensure community leaders are directly involved in shaping and overseeing the paralegals work in Sierra Leone (Timap page 65).

Sustainability also involves achieving and maintaining respect in the community. Deme So and PASI Malawi have paralegal codes of conduct to ensure all paralegals uphold the NGO's reputation in the community (Deme So page 29; PASI page 54). In Namibia, criminal charges have been brought against paralegals for charging clients for their services in violation of the code of conduct (LAC page 37).

Recommendations:

- 1. Involve communities in the selection and oversight of paralegals through the creation of community oversight boards.** Increased community oversight will ensure that the CLA program maintains and increases its level of respect in communities. Creating community oversight boards may ensure positive relationships with the community and leaders.
- 2. Create a paralegal code of conduct.**
- 3. Train paralegals in new skills that can increase their utility to the community in the future.** These trainings should be based on community needs. They may include skills such as accounting and will drafting. Monitors should remain alert to new ways they can assist their communities.

Government Recognition and Regulation of Paralegals: Pros & Cons

Government recognition and regulation of community-based paralegal programs occurs differently throughout the world. Some organizations argue that government recognition contributes to sustainability. Others contend that government recognition limits the independence of paralegal programs.

PROS & CONS OF GOVERNMENT INVOLVEMENT IN COMMUNITY-BASED PARALEGAL PROGRAMS

- Pros:
 - Standardized training and codes of conduct for paralegals, with potential for government role in paralegal training
 - Increased recognition of paralegals as providers of justice services
 - Possible right of paralegals to appear in specialized courts
 - Creation of national paralegal registry and complaint board
 - Increased ability to monitor government entities, such as courts
 - Possible government funding of paralegal programs

- Cons:
 - Possible loss of paralegal independence
 - Possible elimination of paralegals with low education levels that might not meet national qualification standards
 - Resistance from the legal community to paralegals

i. Paralegal Recognition and Regulation in Liberia

The Liberian government does not currently formally recognize paralegals. JPC monitors in Barclayville expressed the belief that statutory recognition of paralegals would help the monitors build better working relationships with governmental and traditional authorities.¹⁰¹ The Foundation for International Dignity (FIND) in Liberia similarly believes that government recognition would increase their ability to monitor courts (FIND page 32).

¹⁰¹ Interview with JPC Lead Monitor Raymond Chie, Monitor Gabriel Nimely, and Coordinator Thomas Mawolo, 10/23/2008, Barclayville.

Paralegal programs have recently gained the attention of Liberia's legal community. Associate Justice of the Liberian Supreme Court Kabineh Ja'neh acknowledges that paralegals have a role to play in the justice system, especially in the mediation of civil disputes.¹⁰² The Chief Justice of the Supreme Court of Liberia has created a Paralegal Committee to determine the proper role of paralegals in Liberian society and to develop a paralegal training curriculum. The Committee is comprised of the Chief Justice and representatives from the Ministry of Justice, Liberian Bar Association, and the Arthur Grimes School of Law at the University of Liberia.¹⁰³ Justice Ja'neh prefers uniform training standards and education qualifications for paralegals to which all NGOs utilizing paralegals would have to conform.¹⁰⁴

The Liberian Bar Association (LBA) has demonstrated some resistance to the idea of community-based paralegals. The LBA is concerned that if paralegals do not have clearly defined roles they will begin to assert powers reserved for lawyers. Some LBA members believe that certification should require paralegals to undergo years of study and training. Despite these concerns, the LBA does recognize that paralegals should have some role to play in conducting mediations and other alternative dispute resolution (ADR) techniques for minor criminal matters, land issues, contract disputes and labor disputes.¹⁰⁵

ii. Government Recognition of Paralegal Organizations Comparatively

Internationally, NGOs have pushed for national recognition of paralegals. In Mali, a national paralegal board exists to develop training programs for paralegals. The Malian government views paralegals as a useful tool for expanding access to justice, increasing confidence in the judiciary, and creating knowledge of the country's civil code in rural areas. In 2006, a three-day conference of public and private stakeholders in Mali resulted in the establishment of a national paralegal training curriculum. In 1998, stakeholders from Burkina Faso, Guinea, Mali, Niger and Senegal created a paralegal statute that NGOs adopted at a regional paralegal stakeholders meeting to standardize paralegal conduct across the region.

In South Africa, home of the largest number of paralegals in sub-Saharan Africa, efforts to officially incorporate paralegals into the South African legal structure have stalled. The Legal Practice Bill, introduced in 2002 but not yet passed, defines the role of paralegals in the legal structure and gives paralegals the right to appear in court on certain matters. The Bill also allows for the enactment of the Legal Services Charter, which recognizes paralegals and advice offices as providers of legal services. The Charter defines a paralegal as "a person who has knowledge and understanding of the law, its procedures and its social context acquired through training, education, work experience and/or a national registered qualification in paralegal practice."

¹⁰² Interview with Liberia Supreme Court Associate Justice Kabineh Ja'neh, 10/24/2008, Monrovia.

¹⁰³ Phone interview with The Carter Center's John Hummel, 10/2/2008, Monrovia/New York.

¹⁰⁴ Interview with Liberia Supreme Court Associate Justice Kabineh Ja'neh, 10/24/2008, Monrovia.

¹⁰⁵ Interview with Liberian Bar Association members Oswald Natu Tweh, Sarah Jegede, A. Kanie Wesso, Theophilus C. Gould, Counselor Gow, 10/24/2008, Monrovia.

Under the Legal Services Charter, a National Regulatory Body would set standardized qualification levels, register all paralegals, and deal with complaints (NADCAO page 49).

Government recognition may take other forms. In South Africa, the Departments of Labor and Social Development runs workshops for Black Sash paralegals, and the Commission for Conciliation, Mediation and Arbitration, a statutory body, trains paralegals on the management and resolution of labor disputes (Black Sash page 21). PASI-Malawi has a formal memorandum of understanding with the Malawi Ministry of Justice. PASI, however, strongly believes that a formal government accreditation program would hurt its work because it would eliminate the paralegals that work at the community level, who often lack much education but are still effective at solving community problems. Instead, PASI submits components of its advanced training course to the Malawi Council of Legal Education for approval (PASI page 54). In Malawi, the Law Society is discussing the possibility of allowing paralegals a limited right of audience in specific courts to handle minor issues such as bail applications (PASI page 54). In Zimbabwe, paralegals sit for a Paralegal Certificate Examination recognized by the Council for Legal Education (LRF page 42).

Government recognition of paralegal programs may face resistance from within the legal community. In Malawi, lawyers' associations often objected to PASI because of perceived competition. (PASI page 54).

Recommendations:

- 1. When deciding on an advocacy plan, discuss the pros and cons of government recognition of paralegals programs.** Pros may include: standardized training and codes of conduct for all paralegals; increased recognition of paralegals as providers of justice services; possible right of paralegals to appear in specialized courts; creation of national paralegal registry and complaint board; increased ability to monitor government entities, such as courts; possibility of government funding of paralegal programs. Cons may include: possible loss of paralegal independence; possible elimination of paralegals with low education levels that might not meet national qualification standards
- 2. Continue to play a role in the national dialogue on paralegals.** JPC and the Carter Center could lobby the national government and the Liberian Bar Association to help them develop a more favorable view of community-based paralegals. For example, JPC could distribute Part I of this handbook to stakeholders in Monrovia who often have a limited understanding of how paralegal programs operate. JPC could also invite members of the Ministry of Justice or the LBA to visit JPC in the southeast and observe the work of the monitors.
- 3. Partner with other community-based paralegal organizations in Liberia.** Such collaborations would assist JPC and similar organizations to effectively lobby the government for policies and programs that are in the best interest of community-based paralegals.

Conclusion

JPC monitor Caroline Doe recently went to the local police station in Harper where she met with a survivor of rape and physical abuse. After Caroline emphasized that she would keep all reported information about the rape and abuse confidential, the survivor disclosed personal and detailed information about the attacks. The case remains unresolved, but the monitor's use of confidentiality, a central tenet of legal services delivery, facilitated a relationship of trust and gave voice to the survivor. The monitor in this case did a wonderful job of using a legal services tool to help a person who had survived a terrible trauma. Stories like this illustrate JPC's unique capacity to improve the lives of ordinary Liberians. Hopefully, this handbook will contribute to that effort.

Annex 1: Itinerary

Fordham Law School Leitner Clinic Field Visit to Liberia

Oct. 19-24, 2008

Monday, October 20 (Harper)

Harper Mayor Regina Sampson

Hodo Clark, Maryland County Superintendent (acting)

Jeff Austin and Bindu Kromah, The Carter Center

Thomas Mawolo, Caroline Doe, A.B. Wleemogar Tyler, Benetta Sebo, John Gbesioh, Bindu Kromah, JPC

John K. Howe and Dioh Jacque, Associate Magistrates

Alfred Thompson, Harper District Commissioner

Michael Worjolo, Land Commissioner and the Surveyor

Anthony Nyema Cooper, Registrar

Tuesday, October 21 (Harper)

Daniel Williams, Children Assistance Project (CAP)

Thunder Tiklo, Liberia National Police Women & Children Protection Unit

I. Hne Wilson, Ministry of Gender and Development Gender Coordinator

Lisulo Lisulo, UNMIL Human Rights

Jeff Austin, The Carter Center

Cora Donyen, Merlin

South Eastern Women Development Association (SEWODA)

Federation of Liberian Youth

JPC Client Interviews

Wednesday, October 22 (Cavalla, Pleebo)

Community meeting in Cavalla

Community meeting in Pleebo

Thursday, October 23 (Barclayville, Harper)

Thomas Mawolo, Raymond Chie, Gabriel Nimely, JPC

JPC Client Interviews

Harper Prison visit

Friday, October 24 (Monrovia)

Anthony Valcke, American Bar Association

Jeannette Carter, University of Monrovia

Liberian Supreme Court Associate Justice Kabineh Ja'neh

Liberian Bar Association

Annex 2: Case Forms

Catholic Justice and Peace Commission

Diocese of Cape Palmas
Republic of Liberia

CONFIDENTIALITY AGREEMENT FOR CLIENTS

This is a confidentiality agreement between the Justice and Peace Commission Community Legal Advisor Program (“JPC”) and _____ (CLIENT NAME).

I, _____ (REP NAME), on behalf of JPC acknowledge that all JPC employees and representatives will treat information provided by or about the client with confidentiality and respect.

PRINT NAME SIGNATURE DATE
(JPC REPRESENTATIVE)

I , _____ (CLIENT NAME) understand that JPC will not disclose confidential information provided by or about me without my express permission. I understand that I am free to discuss the case with other parties if I wish.

PRINT NAME SIGNATURE DATE
(CLIENT)

CERTIFICATE OF TRANSLATION

I, _____ (TRANSLATOR NAME), hereby pledge that I have translated this confidentiality agreement to _____ (CLIENT NAME) in his/her native language to the best of my ability.

PRINT NAME SIGNATURE DATE
(TRANSLATOR)

Catholic Justice and Peace Commission
Diocese of Cape Palmas
Republic of Liberia

CONFIDENTIALITY AGREEMENT FOR JPC PARTNERS

We, the undersigned, hereby enter into a confidentiality agreement with the Justice and Peace Commission Community Legal Advisor Program (“JPC Program”). As parties to this agreement, we acknowledge that we must treat in strict confidence all oral and written communications to and from JPC Program clients, all JPC Program paper files and computer files pertaining to the JPC Program’s specific clients, and any and all information pertaining to the JPC Program’s specific clients. We further pledge that we will not breach this duty to treat the afore-mentioned information in strict confidence. If we desire to include information from the JPC Program’s cases in any written work or oral presentation, we will remove any and all specific names and identifying items from the information to ensure total anonymity for the JPC Program’s clients.

PRINT NAME
(JPC PARTNER)

SIGNATURE

DATE

PRINT NAME
(JPC PARTNER)

SIGNATURE

DATE

PRINT NAME
(JPC PARTNER)

SIGNATURE

DATE

PRINT NAME
(JPC PARTNER)

SIGNATURE

DATE

Catholic Justice and Peace Commission
Diocese of Cape Palmas
Republic of Liberia

CLIENT AGREEMENT FORM

I, _____, request the Catholic Justice and Peace Commission Community Legal Advisor Program (“JPC”) to provide me with advice and assistance in resolving the following dispute/legal issue:

Rights and Duties of Client

1. I have the right to be involved in all major decisions about the way my case is handled, including deciding whether my case should be settled.
2. I have the right to receive advice and assistance from JPC **free of charge**.
3. I understand that all the information I share with JPC is confidential and will not be discussed with outside parties without my express permission. I understand that different members of JPC may discuss my case together. The people that may discuss my dispute include but are not limited to: JPC monitors, JPC supervisors, attorneys that partner with JPC, and representatives from The Carter Center.
4. I will assist JPC in their investigation by providing them with information and documentation relating to my dispute, and authorize JPC to make inquiries about my dispute in the community.
5. I will cooperate fully with the JPC as they advise and assist me with my dispute. I will provide all information requested and attend all meetings regarding my dispute.
6. I will not discuss my dispute with the opposing party without first talking to JPC.
7. I understand that JPC will advocate on my behalf but that they cannot guarantee a desirable outcome.
8. I understand that I can end this agreement with JPC at any time by notifying JPC that I no longer require their advice or assistance.

Rights and Duties of JPC

1. We have agreed to assist the client with this dispute/legal issue.
2. We will treat the client with respect and keep all communications with the client in complete confidence.
3. We will never charge the client a fee for the services rendered.
4. We will provide the client with advice and assistance on his or her dispute to the extent of our abilities.
5. If we are unable to assist the client, we will refer the dispute to an attorney. When a dispute is referred to an attorney, we will inform the client, and continue to assist the client with the process.
6. We will consult the client before making any major decisions about the case. We understand that the client has the right to determine the outcome of her or his case.
7. We understand that our professional relationship with this client covers the dispute for which this agreement is signed. Should the client present a different dispute, another client agreement form will be signed.

PRINT NAME
(CLIENT)

SIGNATURE

DATE

PRINT NAME
(JPC MONITOR)

SIGNATURE

DATE

Catholic Justice and Peace Commission
Diocese of Cape Palmas
Republic of Liberia

CASE INTAKE FORM

| County Monitor's Name, ID #, and Location | Case Number | Date of Intake | Date Closed | Code |
|---|-------------|----------------|-------------|------|
| | | | | |

CLIENT INFORMATION

Name:

Age:

Address (attach map):

Gender (M/F):

Telephone Number:

Safe to call?

Occupation:

Religious affiliation:

Safe to visit?

Language:

Marital status (Married, Living with Partner, Single, Widowed, Divorced):

How did the case reach JPC?

___ Signed confidentiality agreement

___ Client statement attached

Brief Description of the Issue:

[Empty box for brief description of the issue]

Type of issue presented (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Criminal | <input type="checkbox"/> Civil |
| <input type="checkbox"/> Information request | <input type="checkbox"/> Advocacy request |
| <input type="checkbox"/> Private dispute | <input type="checkbox"/> Prisoner's issues |
| <input type="checkbox"/> Community dispute | <input type="checkbox"/> Family dispute |
| <input type="checkbox"/> Employment dispute | <input type="checkbox"/> Advice on court proceedings |
| <input type="checkbox"/> Land dispute | <input type="checkbox"/> Complaint about traditional authority |
| <input type="checkbox"/> Abuse by formal government authority | <input type="checkbox"/> Domestic violence |
| <input type="checkbox"/> Criminal defendant | <input type="checkbox"/> Rape |

Note: Use appropriate addendum, where applicable.

Log of Intake Interview (use additional paper if necessary):

| <u>Options Presented to Client:</u> | |
|--|-------------------------|
| <i>Option Presented:</i> | <i>Client Response:</i> |
| | |
| | |
| | |

Immediate Action Taken & Next Steps:

___ Client Agreement signed?

Record all future actions and follow-up in the case file and in the case log.
 Copy all client documents to the case file.

Catholic Justice and Peace Commission
Diocese of Cape Palmas
Republic of Liberia

DOMESTIC VIOLENCE ADDENDUM TO CASE INTAKE FORM

If a client reports problems in a marriage or dating relationship, you should sensitively ask if she has experienced emotional or physical abuse. Remember that your client may have recently been through a traumatic experience. Treat her with sensitivity and respect so that she will feel more comfortable speaking with you. No person deserves to be abused for any reason. Never suggest that she did anything to deserve to be beaten.

Confidentiality is especially important in GBV cases. Conduct the interview in private and assure the survivor that all of the information that she shares is confidential. Tell her that you will not talk to *anyone*, including her partner or family, without her permission.

Survivors of violence know what is best for them. Provide her with choices, and help her think through what she would like to do. Use this form during the intake interview to guide you through this process and attach it to the case intake form.

_____ Does your client need medical attention?

_____ Is her physical safety in danger? Is the physical safety of her other family members, such as her children, in danger?

_____ Write a detailed description of the abuse your client has experienced and/or is experiencing. Use some of the following questions to understand your client's story:

_____ 1) What caused you to come to the JPC?

_____ 2) In general, how would you describe your relationship?

_____ 3) Do you and your partner work out arguments with great difficulty, some difficulty, no difficulty?

_____ 4) Do arguments ever result in you feeling down or bad about yourself?

_____ 5) Do arguments ever result in hitting, kicking, or pushing?

_____ 6) Do you ever feel frightened by what your partner says or does?

_____ 7) Has your partner ever abused you physically?

_____ 8) Has your partner ever abused you emotionally?

_____ 9) Have you ever been forced to have sex with your partner when you didn't want to?

- _____ 10) Are you currently concerned about your physical safety?
- _____ 11) Are you currently concerned about the safety of your children?
- _____ 12) Are you currently concerned your financial security?
- _____ 13) Have you been to the hospital? To the police? To your family? To a traditional leader? How did they respond?

_____ Present all available options to your client. Many of the potential options are listed below. Record which options you present to your client and how your client responds to each option.

- _____ 1) Go to the clinic or hospital for treatment. (Monitor should accompany client)
- _____ 2) Go to police station to report the case. (Monitor should accompany client)
- _____ 3) Talk to her family. (Monitor should offer to help negotiate)
- _____ 4) Pursue promissory note in Magistrate Court. (Monitor should accompany her to court)
- _____ 5) Divorce/separation.
- _____ 6) Mediation.
- _____ 7) Traditional justice system.

_____ If the client is concerned about her safety, help her think through a safety plan. Encourage her to:

- 1) Tell a trusted person like a family member, counselor, doctor, or spiritual or community leader about his or her experience and why she feels that she is at risk.
- 2) Think of safe places to go to in case of an emergency, like a police station or a church and talk to the religious leader or a shelter if there is one available. (Monitor may help her talk to the community or religious leader).
- 3) Advise her to make an alarm so that neighbors can come to her rescue.
- 4) Keep away sharp instruments or weapons that could be used to hurt her.
- 5) Always have a packed bag of essential items at home and keep them in a safe place (e.g., important papers, extra clothes, identification, etc.)
- 6) Keep telephone numbers of close friends, relatives, police, religious leader or family doctor.

Catholic Justice and Peace Commission
Diocese of Cape Palmas
Republic of Liberia

CHECKLIST FOR SUPERVISOR REVIEW OF FILES

These are guidelines for a JPC supervisor to follow when reviewing the monitors' case files. Include this form and notes on any conversation you have with the monitor in the case file.

_____ Case Name/Number

_____ Supervisor Name

_____ Date of Review

_____ **Overall questions regarding the case file:**

_____ Proper grammar and spelling in all the case documents

_____ File neat and well-organized

_____ By reading the case file, you were able to understand its facts and the resolution.

_____ The monitor's monthly narrative report reflected the case facts and resolution in the file.

_____ If you gave advice to the monitor about the case, that advice is in the case file.

_____ **Did the monitor complete the case intake form properly?**

_____ Clear and brief statement of the case

_____ List of options presented to the client and reactions

_____ List of actions taken

_____ Case listed on the master new cases form

_____ **Did the monitor include all information in the case file?**

_____ Signed confidentiality agreement and client agreement

_____ Copies of court documents

_____ Copies of information received from an attorney on the case

_____ Copies of documents provided by client

_____ Copies of correspondence the monitor sent to client or other parties

_____ Notes from all client meetings and any meetings with other parties / authorities

_____ If the case has been closed, is the manner in which the case was resolved clear?

_____ All documents related to the resolution of the case, including mediation agreement

_____ Complete client evaluation form

_____ **Did the monitor complete the case log?**

_____ Every action recorded, including phone calls, meetings, home visits

_____ If the case has been closed, date of closure recorded.

Annex 3: Paralegal Skills & Establishing an Advice Center

Paralegal Advice Website & Education Training Unit

(Based on the paralegal manual produced by The Black Sash and ETU)

Updated March 2008
<http://www.paralegaladvice.org.za/>

Annex 4: Domestic Violence Pamphlet

Legal Resource Foundation, Zimbabwe

(for Community Distribution)

Annex 5: Sexual Violence Pamphlet

Legal Resource Foundation, Zimbabwe

(for Community Distribution)